S. HRG. 100-877

MISCELLANEOUS WATER RESOURCE MEASURES

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

S. 1737

PROVIDING FOR THE COMPLETION OF THE COLORADO RIVER STORAGE PROJECT

S. 2102

TO PROHIBIT THE LICENSING OF CERTAIN FACILITIES ON PORTIONS OF THE SALMON AND SNAKE RIVERS IN IDAHO, AND FOR OTHER PURPOSES

S. 2108

TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONDUCT THE RECLAMATION GROUNDWATER MANAGEMENT AND TECHNICAL ASSISTANCE STUDY

JUNE 9, 1988

S311-11

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MISCELLANEOUS WATER RESOURCE MEASURES

THURSDAY, JUNE 9, 1988

U.S. SENATE,
SUBCOMMITTEE ON WATER AND POWER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m. in room SD-366, Dirksen Senate Office Building, Hon. Bill Bradley, presiding.

OPENING STATEMENT OF HON. BILL BRADLEY, U.S. SENATOR FROM NEW JERSEY

Senator BRADLEY. The Subcommittee will come to order. Today the Water and Power Subcommittee will consider three bills—S. 1737, to reauthorize the Colorado River Storage Project; S. 2102, to prohibit the licensing of hydroelectric facilities on portions of the Salmon and Snake Rivers in Idaho; and S. 2108, to authorize the reclamation groundwater management and technical assistance study.

These bills together represent a whole spectrum of federal involvement in water policy. In many respects, these bills reflect the past, the present, and the future.

The first bill is S. 1737, which provides for the completion of the Colorado River storage project, sponsored by Senator Garn and Senator Hatch, and is co-sponsored by 20 other members of the Senate.

All of you know Senator Garn has forwarded to the Subcommittee a draft substitute to S. 1737. I and the members of the Subcommittee fully realize that most of today's witnesses have not had the time necessary to fully review the draft substitute.

The Colorado River Storage Project and the Central Utah project are physically diverse and complex undertakings. In turn, the draft substitute of necessity reflects this complexity and also proposes significant changes in the manner in which the federal government pursues water resources development in the western States.

If I could, I would like to just spend a minute or two on the project. The history of the Colorado River Storage Project is clearly long and involved. In 1956—James Dean, Cary Grant, and Elizabeth Taylor starred in Giant, Rocky Marciano retired undefeated, and the Colorado River Storage Project was authorized.

Enactment of the Colorado River Storage Project Act led to the development of the dams at Glen Canyon and Flaming Gorge, and today this law's last great effort, the Central Utah project, is moving toward completion. The CUP, with its centerpiece, the Bonneville unit, represents a fantastic collection of storage reservoirs, tunnels, and pumping facilities that literally shift water from one river basin to another.

So far, $800 million has been spent on the $2 billion Bonneville unit. $140 million is expected to be appropriated in fiscal year 1989.

The Bureau of Reclamation indicates that there is sufficient authorization to accommodate this appropriation. Therefore, construction on the CUP can continue this year without further congressional action.

However, I also understand the needs and interests of the sponsoring Senators and the local communities to have the assurance of continued Federal support. I have briefly reviewed the history of the project and I believe I understand the importance of the CUP to the citizens of Utah.

It is quite simple: Adequate water supply is essential to growth. I have certainly seen this in my own State in New Jersey, where I have promoted a cooperative effort to enlarge two existing dams which will permit increased summer supplies in areas that regularly encounter shortages.

However, I do have a number of comments that relate to the project, specifically with respect to irrigation features, mitigation, and wildlife damage, settlement of Indian water right issues.

With respect to the irrigation features, here are the facts as I understand them, and I would hope that all of the witnesses who come to testify, if there are facts that would change these or that would come to light, I would urge you to share them with the Committee.

As now formulated, nearly two-thirds of the water supplied by the CUP will irrigate 25,000 acres of new land and provide supplemental irrigation water to 220,000 acres. The cost of the supply systems for irrigation is now estimated at one billion dollars, or $6,000 per acre-foot of water supplied.

Each acre of newly irrigated lands will demand some 2 to 4 acre-feet of water annually, for a capital investment of $12,000 to $24,000 per irrigated acre.

The Bureau of Reclamation reported to the House Appropriations Committee that the current market price of farm land in the service area is $700 to $900 per irrigated acre.

The Bureau of Reclamation also estimates that the local farmland annual payment capacity, the amount that the local farmer can contribute to repayment of project construction and operating costs, is about $9.40 per acre.

Finally, what is the wisdom of increasing agricultural acreage at such an enormous expense when we are also paying farmers to idle more than 25 million acres today and as much as 45 million acres by 1990? This program of farmland conservation will cost over $20 billion cumulatively by the year 2,000.

I would hope that today's witnesses will address this issue of irrigation head on and present a rationale for reconciliation of some of

these figures. It seems clear to me that the local farmers will never be able to repay even a fraction of the cost of providing irrigated water.

If economic development is the goal, I wonder that a more cost effective approach might be out there. Maybe not.

Another concern of mine relates to efforts to mitigate the environmental damage for project construction. More and more, our constituents recognize that environmental quality is an essential component of what Americans expect for their lives.

As supporters of S. 2102, which bans the construction of hydro dams on stretches of the Salmon and Snake Rivers, will attest, flowing streams and well-stocked fisheries create nearly invaluable recreation opportunities. It is clear, water projects disrupt the environment, and compensating development and mitigation must occur in the same time frame.

A program which defers environmental issues at the expense of mitigation to the final stages of a project, long after the damage is done, is simply unacceptable.

I note with some dismay that only a small fraction of the $800 million spent to date on the CUP is for mitigation of environmental damage. I also note that the Bureau's environmental record is now being challenged by the Ute Indian tribe, who last week filed suit for damages from the effluent of the Upper Stillwater Dam.

My final concern relates to compensation to those who are losing their use of water when it is transferred from one basin to another. In 1965 the Ute Indian tribe entered into a deferral arrangement which made 48,000 acre-feet of water available for the Strawberry Aqueduct, an essential feature of the CUP.

In exchange for this 48,000 acre-feet of water, the tribe was promised the development of its land for irrigation or some other compensation. As of today, to my knowledge there is no plan for a final settlement of these water rights. There are no negotiations underway with the Utes. It is unknown what the cost will be, and certainly there is no allocation of the CUP spending authorization for settlement.

The cost of settlement is an integral part of the CUP and an appropriate provision in the cost estimate should be made.

I have other concerns which I hope to explore with today's witnesses. I fully expect the CUP to be reauthorized and completed in some appropriate form, and I will assure the witnesses that I will work to that end.

I understand also that there are legislative efforts, Senator Garn's measure being just the latest, to take into account many of the concerns that I express today. Regional development and a balanced economy is a national concern. I believe the American taxpayers are willing to contribute their federal tax dollars to essential projects which allow regional economies to flourish, since it is the collective strength of these regional economies which underpin so much of our hope for the future.

But we have come a long way since 1965. Change in society, local economies, and the national perspective, all demand our attention.

S. 2102 and S. 2108 underscore this change in perspective. Recreation and environmental concerns have become everyday concerns.

Management and planning can substitute for or supplement development.

I look forward to the testimony and thoughts of today's witnesses, and I thought that it would be best for all concerned that we kind of lay things out. And I would hope that those who worked on this project a little longer than I have might bring any new facts to the record, so that we might further enlighten the Committee and the Chairman about this project.

Let me say what a great pleasure it is, and I apologize to the two Senators from Utah for making them sit through this longer than usual opening statement. But I felt that I had to put it out there.

Let me welcome both of you to the Subcommittee. I know of your longstanding interest in this issue. Each of you have spoken to me about it on countless occasions, and I welcome you to the Committee and would ask, unless Senator McClure wanted to make any opening statement, you to proceed.

I see that the discretion and interest of time is the better part of whatever other things Senator McClure could have done. So let me welcome you to the Subcommittee, and please proceed. Senator Garn.

Senator MCCLURE. Mr. Chairman, might I just interject. Other than that, Mrs. Lincoln, how was the play? [Laughter.]

I will reserve my statement until our distinguished colleagues have had their opportunity.

[The texts of the bills follow:]

II

100TH CONGRESS
1ST SESSION

S. 1737

Providing for the completion of the Colorado River Storage Project.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 25), 1987

Mr. GARN (for himself, Mr. HATCH, Mr. DECONCINI, Mr. MCCAIN, Mr. MCCLURE, Mr. SYMMS, Mr. WALLOP, Mr. DOMENICI, Mr. WIRTH, Mr. ARMSTRONG, Mr. HECHT, Mr. SIMPSON, Mr. REID, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

Providing for the completion of the Colorado River Storage Project.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for completion of the Colorado River Storage Project, and for completion of construction of the participating projects; the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by Public Law 92–370 (August 10, 1972, 86 Stat. 525), is hereby further increased by $755,000,000 (October 1988 prices), plus

or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved. This additional sum shall be available solely for continuing construction of the previously authorized units and projects named in Public Law 92–370.

II

100TH CONGRESS
2D SESSION

S. 2102

To prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26 (legislative day, FEBRUARY 15), 1988

Mr. MCCLURE introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Energy Regulatory Commission shall not license the construction of any dam under the Federal Power Act (41 Stat. 1063), as amended, on—

(a) The Salmon River, Idaho, from Long Tom Bar to the confluence of the Snake River or

(b) the Snake River, Idaho, from the eastward extension of the north boundary of section 1, township 5

north, range 47 east, Willamette Meridian to the pool formed behind Granite Dam.

SEC. 2. In order to further the purposes of the Wild and Scenic Rivers Act (82 Stat. 906) as amended and to protect the values for which certain portions of the Salmon River, Idaho and the Snake River, Idaho were designated as components of the system, no dam may be constructed on the segments of the Salmon or Snake Rivers referred to in section 1.

II

100TH CONGRESS
2D SESSION

S. 2108

To authorize the Secretary of the Interior to conduct the Reclamation Groundwater Management and Technical Assistance Study.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 29 (legislative day, FEBRUARY 15), 1988

Mr. BRADLEY (for himself and Mr. MOYNIHAN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize the Secretary of the Interior to conduct the Reclamation Groundwater Management and Technical Assistance Study.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Reclamation Groundwater Management and Technical Assistance Study Act of 1988".

SEC. 2. (a) The Secretary of the Interior, acting through the Bureau of Reclamation and in furtherance of Public Law 99-434, the High Plains Groundwater Demonstration Program Act of 1983 (98 Stat. 1675), shall conduct an investi-

gation and analysis and prepare a Reclamation Groundwater Management and Technical Assistance Study to be submitted to the Congress, which shall include—

(1) an assessment of the impacts of existing Bureau of Reclamation projects on the quality of groundwater resources;

(2) a description of methods for optimizing Bureau of Reclamation project operations to ameliorate adverse impacts on groundwater; and

(3) his recommendations concerning the establishment of a Groundwater Management and Technical Assistance Program in the Bureau of Reclamation in order to assist Federal and non-Federal entity development and implementation of groundwater management plans and activities.

(b) The report shall be submitted to the Committees on Appropriations and Interior and Insular Affairs of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate within two years of the appropriation of funds authorized by this Act.

SEC. 3. There is authorized to be appropriated for fiscal years beginning after September 30, 1988, $4,000,000 to carry out the study authorized by this Act.

STATEMENT OF HON. JAKE GARN, U.S. SENATOR FROM UTAH

Senator GARN. Thank you, Mr. Chairman. I am sure Senator Hatch and I can get even for your long opening statement.

Let me say at the outset, I doubt that in my 14 years in the Senate that I ever remember reading a statement before a Subcommittee or a Committee. But I remember when I was Chairman of the Senate Banking Committee and Paul Volcker came for his semiannual testimony before the Committee on monetary policy.

And I asked him if he would please summarize his testimony to save the Committee's time. The next year when he came back, I asked him if he would read his full statement to save the Committee time. [Laughter.]

His summary took a great deal longer than reading the statement.

And having been involved in this project ever since I became a Salt Lake City commissioner in 1967, maybe I know a little too much about it. And I think I will probably save the Committee time by reading most of my statement, rather than ad libbing.

The project has been under construction for 20 years. It is 45 percent complete. For 23 years the people of Utah have paid ad valorem tax assessments for CUP. Two years ago, in a snowstorm voters in the twelve participating CUP counties turned out and voted by a 73-percent margin to pay to the federal government an additional $500 million for CUP water.

Nearly all the municipal and industrial features of the project can be built under existing authority. The Bureau of Reclamation is moving at an increasingly rapid pace to construct the dams and other water delivery features which will bring these waters to the urban areas of our State.

But like nearly all multipurpose water projects, it seems that the rural citizens have to wait until the end to receive their projects. Unfortunately, the CUP I&D features cannot be built under the existing authorizing ceiling. For that matter, neither can the environmental features, which are designed to offset the lost habitat which has occurred as a result of the construction of the project.

It is for this reason that we are before the Subcommittee today.

Fundamentally, I believe the Federal Government has an obligation to keep its word to farmers and rural citizens, just as it does to urban residents. This is a matter of fairness, equity, pure and simple.

Let me express in broad terms how the measure before the Subcommittee today proposes to accomplish this task. In September, Senator Hatch and I introduced a bill to reauthorize CRSP by $765 million, under the assumption that the irrigation and drainage features would cost $404 million, fish and wildlife mitigation $168 million, remaining M&I features just under $42 million, $27 million for recreation, and $2 million for flood control, a total of $644 million for remaining Bonneville unit features.

The balance would be for other CRSP features. 20 members of the Senate, including eight Democrats and twelve Republicans, have since cosponsored that bill.

Since that time, Mr. Chairman, it has become increasingly apparent to me and my colleagues from Utah that, if possible, we

must find a way to come up with a creative new way that will assure construction of a full I&D system for farmers at a lower price than our original proposal envisioned, as well as completing the solid fish and wildlife program.

And I might add parenthetically, Mr. Chairman, that the major reason—there are others, but the major reason for the large increase in the costs that you mention in your opening statement was simply that this entire project was supposed to be finished by 1972.

If Congress had funded it incrementally and kept with the original plan, I will guarantee you the project not only would have been completed at a vastly lower cost, but the Federal Government would have been receiving repayment since 1972 as well.

The Central Utah water conservancy district suggeste to us the possibility of nonfederally financing the I&D system some months ago. I went along with the concept because I believed it offered the possibility of building the system at a much lower cost than if the Federal Government were to do it.

At the same time, I did not know how much lower. The proposal I am offering the Committee today reduces the cost of the I&D system from $404 million to $280 million, using a system of non-Federal financing.

Essentially, this proposal envisions the Central Utah water conservancy district issuing bonds to be retired over not more than a 50-year period, using the same source, power revenues, for repayment which would have been used to repay the cost of the system federally.

I am the first to recognize that this method of financing is a departure from traditional methods used previously under the reclamation program. However, given the negligible impact on CRSP power rates and the substantial possibility for savings, I believe what the district has proposed is worth pursuing.

Let me offer an example of why I believe non-Federal financing, if given a chance, could succeed. Several years ago, the Bureau of Reclamation estimated the cost of building the Upper Stillwater Dam at around $50 million. When it was finally finished earlier this year, the cost was more like $100 million.

Every year the cost estimates went up, up, and up. The Bureau's estimate for the I&D system is $404 million, and who is to say it might not end up costing $800 million or more?

I do not believe all the blame rests with the Bureau, but it is a fact that, with inflation, new environmental requirements, and at times very poor management, the overall cost of CRSP has ballooned from $600 million in 1956 to almost $3 billion.

The old ways of doing business are simply not good enough any more. The Bureau of Reclamation has done a fabulous job watering the West, something for which I am grateful. But even so, the fact is that the Bureau builds good projects at prices that are top dollar.

This is a chance to break away from the past and see if private enterprise under the direction of those who have an incentive to keep costs down can work. I expect the Central Utah water district to do just that, Mr. Chairman.

Those who criticize this proposal will do so out of sincere concerns over what long-term effects our plan will have on the future

of the reclamation program. I would not be honest if I did not admit that I have some questions about that myself.

But I hope we will not look a gift horse in the mouth and out of fear refuse the opportunity to try a well thought out plan that could save taxpayers a very large sum of money, while protecting electrical power rate payers in the process.

The rest of this bill has much in it as well which will benefit the people of Utah. Congressman Owens has proposed a fish and wildlife commission to oversee the completion of those important features of CUP. This too is a departure from tradition.

Even though I believe existing Federal and State agencies are well equipped to carry out the remaining environmental features of this project, I realize there are many who do not share that point of view.

I have agreed to the establishment of a five-member commission, to be appointed by the President, to complete the section 8 environmental features of the project. The scope of the commission is narrow and would essentially carry out the mitigation program the Bureau of Reclamation has already proposed.

Congressman Owens is to be complimented for proposing this feature.

Once the CUP is completed, however, I must depart from my colleague's suggestion to create an ongoing environmental entitlement program at a cost of $15 million per year, using power revenues from CRSP basin funds. Selfishly, it would be nice to take this money and use it only in Utah.

Power users in Wyoming, Colorado, New Mexico, Arizona, Nevada, and California, I cannot imagine they want to be so charitable to us. In plain English, this is simply not fair to our neighboring States or, for that matter, to CRSP power users in our own State who pay into this fund.

Unfortunately, other than Murray City, Congressman Owens does not represent the 27 percent of the people of Utah who pay their power bills into this fund.

So we agree on ongoing, as you mentioned in your opening statement, environmental mitigation concurrent with the construction of the project. That has not happened as adequately in the past as it should have. We are not in disagreement on that.

But I feel very strongly that once the project is completed existing agencies can handle that environmental mitigation, and it is not necessary to continue this commission and the $15 million after the project is completed.

Mr. Chairman, I will not agree to allow this bill to become law unless this fund as proposed in the House bill is taken out. It is offensive to me and to our neighboring States, who rightfully expect to be treated fairly. It is too much of a good thing for some environmentalists, a horrible idea for CRSP ratepayers, and it offers no accountability to anyone here in the Congress.

I hope I have made my position clear on continuing it after the construction is completed. And I am sure that I speak for the rest of the delegation and the Governor of Utah as well.

In fact, I believe I should point out that, because of the savings we have achieved by eliminating Federal financing of the I&D system in this bill and some unnecessary features of the project,

the cost of this bill has dropped from $765 million in our original proposal to $394 million, a saving of $361 million to taxpayers.

The bill also includes a settlement of a longstanding controversy in Strawberry Valley of Utah over land surrounding one of the oldest water reclamation projects in the country.

Environmental groups, sportsmen, and the Strawberry Water Users Association have agreed on a proposed settlement contained in section 10 of this bill. After compensating the water users for relinquishing their contractual surface rights to some 56,870 acres of pasture and recreational lands around Strawberry reservoir, this bill provides that those lands will be transferred to the U.S. Forest Service to become part of the Uinta national forest.

I would like to congratulate Congressman Howard Nielson, who has worked diligently to accomplish this transfer of lands. I believe it is an important part of this legislation and would urge the Committee's adoption of this provision. Again, it is the result of almost two years worth of negotiation and compromise among diverse groups in Utah.

I am pleased also to support the provisions of sections 4 and 14, which provide for construction, realignment and rehabilitation of several Ute Indian and non-Indian canals, streams, and small reservoirs in the Duchesne County area of the Uinta Basin.

This area of Utah suffered one of the worst economic downturns in the State's history over the past four years. To their credit, both the Indians and non-Indian residents of the area are making good faith efforts to work with each other to resolve their differences and find common interests.

I am pleased to endorse these provisions at Subcommittee as well.

I should point out that almost half the water being diverted from the Colorado River Basin to the Great Basin by the CUP is Ute Indian water. As you mentioned, Mr. Chairman, the utes agreed in 1965 to allow CUP to use this water under the condition that the Secretary of the Interior would compensate the tribe by constructing projects capable of delivering an equivalent amount of water to that which was diverted or through some other means of compensation.

Under this agreement, this must be accomplished no later than the year 2005. I believe the Government must keep its word to the Indians, like everyone else.

Provision of this bill for the Indians is in no way an attempt by the Utah delegation to breach that 1965 deferral agreement. Rather, it is our intent to work with the Secretary of the Interior to offer the tribe compensation on an equitable basis next year.

This could include a legislative package, depending on what the parties involved agree to do.

The bill includes some very specific language on stream flows to protect to a reasonable extent fish habitat. Most of the references in the bill are a restatement of the stream flow commitments included in project environmental statements.

I remain concerned, however, that the delegation bill not overturn existing State water law. This bill does not and clearly relies on a 1980 in-stream flow agreement signed by water and wildlife management agencies.

Recently, an addendum has been completed in Salt Lake City which will assure that the primary purpose for which the CUP was created is maintained, namely the delivery of water for culinary and irrigation uses are protected and that people do not become secondary to fish in priority.

This is important because of the necessity of sharing shortages during our inevitable droughts in the West. I do not want to see a situation arise where by leaving water in the streams to protect fish habitat, downstream farmers for whom we built this project receive no water.

The addendum to the 1980 In-Stream Flow Agreement as written will assure that this situation does not arise.

I suppose, to leave maybe the best for last, at least for some people, as my colleagues from Utah know, last summer I voiced very, very strong concerns over a proposal by the U.S. Fish and Wildlife Service to annex a large area of Utah Lake in order to create a national wildlife refuge.

This action would have bypassed the Congressional authorizing process by utilizing an existing duck stamp fund to purchase land and water rights for the refuge, and in so doing would have overturned the Supreme Court decision which ended a 100 year old controversy over ownership of the bed of Utah Lake.

The court ruled that Utah Lake belongs to the State of Utah and not to the federal government. So I deeply resented the lack of consultation by Fish and Wildlife and this end run approach by a federal agency.

Moreover, the proposal put forth by the agency failed miserably to address the issues of: one, the potential adverse effects of a wildlife refuge on the Central Utah water project during a drought; two, the effects on neighboring farms and orchards due to pesticide restrictions stemming from planned introductions of endangered species; and three, the effects on Provo City's longstanding plans to expand its airport runway into Provo Bay and the overall question of air safety, with planes landing in the middle of a full-scale wildlife refuge.

Originally, the agency was caught engaging in doubletalk. First, they said the proposal was not viable if Provo Bay was excluded from it. In later documents, Fish and Wildlife said it had no problem deleting Provo Bay and supporting a more modest, yet perfectly viable, refuge on wetlands—or marshlands, in Goshen Bay and Benjamin Slough.

Last week, after months of study, a Subcommittee of the Utah Lake Study Committee announced it would recommend to the Utah County Commission that a locally controlled refuge on Goshen Bay and the Benjamin Slough be included in plans for improving the overall quality of Utah Lake.

Mr. Chairman, I believe this local proposal is a far preferable alternative than the sneaky, ill-prepared one put forth by the U.S. Fish and Wildlife Service. I have never opposed improving waterfowl habitat on Utah Lake or anywhere else.

I do not propose to do so now. In the bill, I have asked for $14 million to rehabilitate wetlands around the Great Salt Lake. I am also hopeful that one day soon the waters of that lake will recede

to the point where we can rehabilitate and reopen the Bear River National Wildlife Refuge.

Today I would like to offer an amendment to the substitute bill now before the Subcommittee, which would establish a Utah Lake waterfowl refuge on Goshen Bay and the Benjamin Slough.

Under this proposal, the State of Utah Division of Wildlife Resources, in coordination with a new, yet to be created, Utah Lake Authority, would manage and operate the refuge.

The measure addresses my earlier concerns by assuring that conservation easements in these two areas would be acquired on a willing seller basis. This would be done in a way that is compatible with surrounding farmlands and orchards.

Traditional agricultural practices, including the use of pesticides, would be allowed, and state water law and water rights would be protected. Farmers relying on CUP water would be assured of their water supply during drought years.

The proposal avoids conflicts with Provo City's legitimate concerns by excluding Provo Bay. Under these circumstances, I believe the proposal I am offering is a measured, reasonable approach to a very controversial issue. Nevertheless, I am very sure there will be criticism from those who believe I have sold them out and from those who do not believe it goes far enough.

If that is the case, then I probably have come out with a fair solution to both sides. I hope the statement will consider the proposal in the same spirit in which it is offered.

Mr. Chairman, this concludes my opening statement, and I hope I have gotten even with you for your long opening statement. [Laughter.]

[The prepared statement of Senator Garn follows:]

STATEMENT BY SENATOR JAKE GARN

ON THE REAUTHORIZATION OF THE

COLORADO RIVER STORAGE PROJECT ACT

JUNE 9, 1988

Mr. Chairman, at the outset, I want to thank you for setting aside time today for this hearing. As you know, I have prepared a substitute bill which I hope the Chairman will consider this morning. This substitute is at first glance quite complicated. However, I can assure you that as you become better acquainted with its specific proposals, it becomes easier to understand.

Let me start by reminding this subcommittee that Utah is the second driest state in the country. In 1955, we, along with our sister Colorado River Basin states met in Santa Fe, New Mexico and agreed to a formula dividing up the waters of the Colorado River so that both our urban and rural residents could put those waters to beneficial use. In 1956, the Congress passed the Colorado River Storage Project Act (CRSP) which essentially codified those water apportionments which had been agreed to in the previous year.

Utah's share of the Upper Basin allotment was 22.8%, with Wyoming, Colorado, and New Mew Mexico sharing the balance of the water. The Bonneville Unit of the Central Utah Project (CUP) became the largest of all of those CRSP projects (both in scope and cost). Its features became the means by which waters which would otherwise flow into the main stem of the Colorado River and downstream to California, could be captured, and then diverted through

the Uinta and Wasatch Mountains into the Bonneville Basin of Utah. Combined with waters from the Provo River, a completed Bonneville Unit is Utah's primary source of water for our farmers in ten rural counties and urban residents in Salt Lake and Utah Counties. This is Utah's future growth supply with Municipal and Industrial water for 400,000 new residents and hundreds of small farms. Without it Mr. Chairman, and given our state's high (number one in the U.S.) birth rate, our children will see their future opportunities severely limited.

The project has been under construction for 20 years and is 45% complete. For 23 years the people of Utah have paid ad valorem tax assessments for CUP. Two years ago in a snowstorm, voters in the twelve participating CUP counties turned out and voted by a 73% margin to pay to the federal government an additional $500 million dollars for CUP water. Nearly all of the Municipal & Industrial (M & I) features of the project can be built under existing authority. The Bureau of Reclamation is moving at an increasingly rapid pace to construct the dams and other water delivery features which will bring these waters to the urban areas of our state.

But, like nearly all multi-purpose water projects, it seems that the rural citizens have to wait until the end to receive their projects. Unfortunately, the CUP Irrigation and Drainage (I & D) features can not be built under the existing authorization ceiling. For that matter, neither can the environmental features which are designed to offset the lost habitat which has occurred as a result of the construction of the project. It is for this reason that we are before the subcommittee today.

Fundamentally, I believe the federal government has an obligation to keep its word to farmers and rural citizens just as it does to urban residents. This is a matter of fairness and equity, pure and simple.

Let me express in broad terms how the measure before the subcommittee today proposes to accomplish the task. In September, Senator Hatch & I introduced a bill to reauthorize the CRSP by $765 million dollars under the assumption that the Irrigation and Drainage features would cost $404 million, Fish and Wildlife Mitigation $168 million, remaining M & I features just under $42 million, $27 million for recreation, and $2 million for flood control. ($644 total for remaining Bonneville Unit features). The balance would be for other CRSP features. Twenty members of the Senate (including 8 Democrats and 12 Republicans) have since co-sponsored that bill.

Since that time Mr. Chairman, it has become increasing apparent to me and my colleagues from Utah that if possible, we must find a way to come up with creative new ways that will assure construction of a full I & D system for farmers at a lower price than our original proposal envisioned, as well as completing a solid Fish & Wildlife program.

The Central Utah Water Conservancy District suggested to us the possibility of non-federally financing the I & D system some months ago. I went along with the concept because I believed it offered the possibility of building the system at a much lower cost than if the federal government were to do it. At the time, I didn't know how much lower. The proposal I am offering the committee today reduces the cost of the I & D system from $404 million to $280 million dollars using a system of non-federal financing.

Essentially, this proposal envisions the Central Utah Water Conservancy District issuing bonds to be retired over not more than a 50 year period, using the same source (power revenues) for repayment which would have been used to repay the cost of the system federally.

I am the first to recognize that this method of financing is a departure from traditional methods used previously under the reclamation program. However, given the negligible impact on CRSP power rates and the substantial possibility for savings, I believe what the District has proposed is worth pursuing.

Let me offer an example of why I believe non-federal financing if given a chance, may succeed. Several years ago, the Bureau of Reclamation estimated the cost of building the Upper Stillwater Dam at around $50 million dollars. When it was finally finished earlier this year the cost was more like $100 million dollars. Every year the cost estimates went up, up, up! If the Bureau's estimate for the I & D system is $404 million, then who is to say it might not end up costing taxpayers $800 million or more. Now I don't believe all the blame rests with the Bureau, but it is a fact that with inflation, new environmental requirements, and at times, poor management, the overall cost of CRSP has ballooned from $600 million in 1956 to almost $3 billion dollars. The old ways of doing business are simply not good enough any more. The Bureau of Reclamation has done a fabulous job watering the west, something for which I am grateful. But, even so, the fact is that the Bureau builds good projects at prices which are top dollar. This is a chance to break away from the past and see if private enterprise under the Direction of those who have an incentive to keep costs down, can

work. I expect the Central Utah Water District to do just that.Mr. Chairman, those who criticize this proposal will do so out of sincere concerns over what long term effects our plan will have on the future of the Reclamation program. I would not be honest if I didn't admit that I have some questions about that myself. But, I hope we won't look a gift-horse in the mouth and out of fear refuse the opportunity to try a well thought-out plan that could save tax payers one very large sum of money while protecting electrical power ra[illegible]ayers in the process.

Now, the rest of this bill has much in it as well which will benefit the people of Utah. Congressman Owens has proposed Fish & Wildlife Commission tc oversee the completion of those important features of CUP. This too is a departure from tradition. And even though, I believe existing federal and state agencies are well equipped to carry out the remaining environmental features of this project, I realize there are many who do not share that point of view. I have agreed to the establishment of a 5 member commission to be appointed by the President to complete the Section 8 environmental features of the project. The scope of the commission is narrow and would essentially carry out the mitigation program the Bureau of Reclamation has already proposed.

Once the CUP is completed however, I must depart from my colleague's suggestion to create an on-going environmental entitlement program at a cost of $15 million per year using power revenues from the CRSP basin fund. Selfishly, it would be nice to take this money and use it only in Utah.

But, to power users in Wyoming, Colorado, New Mexico, Arizona, Nevada, & California, I can't imagine they want to be so charitable to us. In plain English, this is simply not fair to our neighboring states or for that matter to CRSP power users in our own state who pay into this fund. Unfortunately, other than Murray City, Congressman Owens does not represent the 27% of the people of Utah who pay their power bills into this fund. He would have more consideration for those people if he did.

Mr. Chairman, I will not agree to allow this bill to become law unless this fund as proposed in the House bill is taken out. It is offensive to me and to our neighboring states who rightfully expect to be treated fairly. It is too much of good thing for environmentalists, a horrible idea for CRSP rate payers, and it offers no accountability to anyone here in the Congress. I hope I have made my point.

In fact, I believe I should point out that because of the savings we have achieved by eliminating federal financing of the I & D system in this bill and some unnecessary features of the project, the cost of this bill has dropped from $765 million to $394 million, a savings of $361 million to taxpayers.

The bill includes a settlement of a long-standing controversy in Strawberry Valley of Utah over lands surrounding one of the oldest water reclamation projects in the country. Environmental groups, sportsmen and the Strawberry Water Users Association have agreed on the proposed settlement contained in Section 10 of this bill. After compensating the Water Users for relinquishing their contractual surface rights to some 56,775 acres of pasture & recreational lands around Strawberry Reservoir, this bill

provides that those lands will be transferred to the U.S. Forest Service to become part of the Uinta National Forest. I would like to congratulate Congressman Howard Nielson who has worked diligently to accomplish this transfer of lands. I believe it is an important part of this legislation and would urge the Committee's adoption of this provision. Again, it is the result of almost two year's worth of negotiation and compromise among diverse groups in Utah.

I am pleased also to support the provisions of Section 4 and 14 which provide for construction, realignment, and rehabilitation of several Ute Indian and non-Indian canals, streams, and small reservoirs in the Duchesne County area of the Uintah Basin. This area of Utah has suffered one of the worst economic downturns in the state's history over the past four years. To their credit, both the Indians and non-Indian residents of the area are making good faith efforts to work with each other to resolve differences and find common interests. I am pleased to endorse these provisions to the Subcommittee as well.

I should point out that almost half the water being diverted from the Colorado River Basin to the Great Basin by the CUP is Ute Indian water. The Utes agreed in 1965 to allow the CUP to use this water under the condition that the Secretary of the Interior would compensate the tribe by constructing projects capable of delivering an equivalent amount of water to that which was diverted or through some other means of compensation. Under the agreement, this must be accomplished no later than the year 2005.

I believe the government must keep its word to the Indians like everyone else. The provisions of this bill for the Indians is in no way an attempt by the Utah delegation to breach that 1965 Deferral Agreement. Rather, it is our intent to work with the Secretary of Interior to offer the tribe compensation on an equitable basis next year. This could include a legislative package depending on what the parties involved agree to do.

The bill includes some very specific language on stream flows to protect to a reasonable extent, fish habitat. Most of the references in the bill are a restatement of stream flow commitments included in project Environmental Statements. I remain concerned however, that the delegation's bill not overturn existing state water law. This bill does not and clearly relies on a 1980 In-Stream Flow Agreement signed by water and wildlife management agencies. Recently, an addendum has been completed in Salt Lake City which will assure that the primary purpose for which the CUP was created is maintained. Namely, that the delivery of water for culinary and irrigation uses are protected and that people do not become secondary to fish in priority. This is important because of the necessity of sharing shortages during our inevitable droughts in the West. I do not want to see a situation arise where by leaving water in the streams to protect fish habitat, downstream farmers for whom we built this project receive no water. The Addendum to the 1980 In-Stream-Flow-Agreement as written will assure that this situation does not arise.

I have also included a provision in the bill to amend the Salinity Control Act in order to establish a cost effectiveness test.

These amendments will save tax dollars by giving the Bureau of Reclamation a chance to move ahead on Salinity Control projects in the Colorado River Basin States that provide the least expensive ways to remove salt from the River. Environmentally, this makes good sense as well. Section 18 of the proposed substitute is not part of the CRSP, but it does effect the quality of CRSP water. If this measure is acceptable, the Congress would have 60 days to review all projects proposed by the Bureau to make certain they meet a cost effectiveness test.

I suppose I will save the best for last in my remarks today. As my colleagues from Utah know, last summer I voiced some very strong concerns over a proposal by the U.S. Fish and Wildlife Service to annex a large area of Utah Lake in order to create a National Wildlife Refuge. This action would have by-passed the Congressional Authorizing process by utilizing an existing duck stamp fund to purchase land and water rights for the refuge and in so doing would have overturned a Supreme Court decision which ended a 100 year old controversy over ownership of the bed of Utah Lake. The Court ruled that Utah Lake belongs to the State and not the Federal Government.

So, I deeply resented the lack of consultation by Fish & Wildlife and this end run approach by a federal agency. Moreover, the proposal put forth by the agency failed miserably to address the issues of (1) the potential adverse effects a wildlife refuge on Central Utah Project Water during a drought, (2) the effects on neighboring farms and orchards due to pesticide restrictions stemming from planned introductions of endangered species and,

(3) the effects on Provo City's longstanding plans to expand its airport runway into Provo Bay and the overall question of air safety with planes landing in the middle of a full scale wildlife refuge.

Originally, the agency was caught engaging in doubletalk. First, it said the proposal was not viable if Provo Bay was excluded from it. In later documents, Fish & Wildlife said it had no problem deleting Provo Bay and supporting a more modest, yet perfectly viable refuge on marshlands in Goshen Bay and the Benjamin Slough. Last week, after months of study, a subcommittee of the Utah Lake Study Committee announced it would recommend to the Utah County Commission that a locally controlled refuge on Goshen Bay and the Benjamin slough be included in plans for improving the overall quality of Utah Lake.

Mr. Chairman, I believe this local proposal is a far preferable alternative than the sneaky, ill-prepared one put forth by the U.S. Fish & Wildlife Service. I have never opposed improving waterfowl habitat on Utah Lake or anywhere else. I do not oppose to do so now. In the bill, I have asked for $14 million dollars to rehabilitate wetlands around the Great Salt Lake. I am also hopeful that one day soon the waters of that Lake will recede to the point where we can rehabilitate and reopen the Bear River National Wildlife Refuge.

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Today, I would like to offer an amendment to the substitute bill now before the Subcommittee which would establish a Utah Lake Waterfowl Refuge on Goshen Bay and the Benjamin Slough. Under my proposal the State of Utah Division of Wildlife Resources in Coordination with a new (yet to be created) Utah Lake Authority would manage and operate the Refuge. The measure addresses my earlier concerns by assuring that conservation easements in these two areas would be acquired on a willing seller basis. This would be done in a way that is compatible with surrounding farm lands and orchards.Traditional agricultural practices, including the use of pesticides would be allowed and state water law and water rights would be protected. Farmers relying on CUP water would be assured of their water supply during drought years. The Proposal avoids conflicts with Provo City's legitimate concerns by excluding Provo Bay. Under these circumstances, I believe the proposal I am offering is a measured reasonable approach to a controversial issue. Nevertheless, I am sure there will be criticism from those who believe I've sold them out and from those who don't believe it goes far enough. If that's the case then I believe this is a fair solution to both sides. I hope the subcommittee will consider the proposal in the same spirit with which it is offered.

Mr. Chairman that concludes my opening statement. I again thank you for giving me this opportunity to express my thoughts on a measure I believe will have such a large impact on the future of the state of Utah. Thank You.

Senator BRADLEY. Senator Garn, thank you very much. I think it was an excellent statement. Frankly, it was very helpful and I am glad that you did take the time to read it fully.

Senator Hatch.

STATEMENT OF HON. ORRIN G. HATCH, U.S. SENATOR FROM UTAH

Senator HATCH. Thank you, Senator Bradley.

I would like to express my appreciation to the Subcommittee for holding this hearing today. Last fall, as Senator Garn stated, he and I, along with 20 other cosponsors, introduced S. 1737, authorizing an increase in the Colorado River storage project ceiling.

And as you are aware, Mr. Chairman, the Colorado River storage project encompasses individual water projects in the States of Arizona, Colorado, New Mexico, Utah, and Wyoming. The project was originally authorized back in 1956. The majority of the features under this proposal have been completed.

However, an increase in the ceiling is needed in order to complete the long-promised features of the Central Utah project's Bonneville unit.

Mr. Chairman, the Central Utah project is extremely important to the future of our State of Utah, and its completion has been of paramount importance to both Senator Garn, who has been in a key position by virtue of his Appropriations Committee position, and to me over all the years we have spent in representing the people of Utah.

Senator Garn's commitment to the project has been invaluable in bringing this project to the point at which it stands today, and we all appreciate his efforts.

You have probably heard it time and time again, but for Utahans the wise management of water is not an afterthought; it is an ever present reality. With the exception of the last three years, which gave us more than 185 percent of normal precipitation, we are one of the driest States in the country.

I have said this many times before, but this project really began as a vision of how this State and her citizens could manage and control their own destiny. Thus, the Central Utah project was designed over three decades ago as a means to manage the State's water resources.

Every year, the mountains of Utah receive moisture and snow, with this one year being the exception. Yet, the water would all be lost downstream without the construction of a water storage facility.

The completion of the Central Utah project will allow the state to store water for use during dry years and transfer high mountain waters to areas of the State which are in need of additional water supplies.

I might also add that the completion of this project would give the State greater flexibility in controlling flooding in the very few, but expensive, water surplus years.

What began as a vision is now near its completion and total fulfilment, but action has to be taken by both the Senate and the House in order for this to occur.

The last major storage facility, Jordanelle Dam, is now undergoing significant work. Yet, no work has been done to complete the irrigation and drainage system which would take water to our farmers and ranchers in the seven Utah counties of Millard, Sanpete, Juab, Sevier, Piute, Garfield, and southern Utah County.

For years, these farmers have been promised a water delivery system, and for years they have been paying for it. This promise and this commitment, it seems to me, cannot be overlooked.

This feature of the project is very important to the agricultural economy of the State and should not be underestimated by those who do not recognize the importance of it to the State. Agriculture is one of our State's biggest and most important enterprises, contributing more than $2 billion to our State's economy every year.

The commitment, as Jake mentioned, to Duchesne County and the Ute Indian tribe is also an important matter which should not be forgotten as we move towards the completion of this project.

And we have worked in close consultation with the Central Utah water conservancy district to decrease the authorization level necessary to complete both the municipal and industrial water features, as well as the long-promised irrigation components of the water delivery system, as Jake mentioned, approximately $350 million.

Mr. Chairman, I believe you will find, upon close examination, a creative and cooperative approach to address the payment of these features. Now, Senator Garn has paved new ground for this proposal with a request of the Central Utah water conservancy district for a study of possible options for paying for these facilities through the use of private financing.

I know that this feature is and will be the point of much discussion, but I would like you to know that it is our intent that, if any such arrangement is ultimately adopted, it should be consistent with the Western Area Power Administration and Colorado River Storage Project.

This has been offered as an alternative proposal to the traditional method of financing. I would like to add, I certainly have no objection to the traditional financing method. In fact, it has been reclamation law for years. We are clearly within our bounds to request it and the Committee could well be within their bounds to allow for financing in the traditional method.

The main point, though, is this, however. This project is authorized and should be completed, and I simply believe that all promises which have been made should be kept by the best method available.

I continue to believe that the provisions of the House bill, which have been dropped in the Senate bill, are divisive, controversial provisions which will hold up and have a negative impact upon our ability to complete this project for rural and urban areas.

These provisions are opposed by all four GOP members of the Utah delegation and by the governor of the State of Utah and many affected parties. Yet, in the recognition of some legitimate concerns of the environmental community, a provision authorizing the Fish and Wildlife Commission to undertake the implementation of section 8 activities and address several other fish and wildlife priorities of Utah environmental groups has been included.

I must say that I have some concerns with setting such a precedent and believe its focus, if adopted, must be necessarily limited in scope and duration.

Mr. Chairman, this bill contains other provisions relating to a land disposition solution to the Strawberry water project lands, which was negotiated last year between the Forest Service, Bureau of Reclamation, Strawberry Water Users, and the delegation, which was originally initiated by Congressman Nielsen.

Additionally, there is a salinity control provision which is designed to allow the United States to better meet its treaty obligations to Mexico by cleansing the Colorado River of salinity.

I might add that a primary beneficiary of this proposal will be the lower basin States, which depend on Colorado River water for much of their water needs.

Mr. Chairman, again I appreciate and personally appreciate your consideration of this legislation. I am sure you recognize its importance to the State of Utah and other basin States, and I look forward to working with you and continuing to work with Senator Garn to implement an authorization ceiling which will allow the State of Utah to realize its full economic potential.

So we appreciate what you are doing, and we appreciate your listening to us, and we appreciate any help you can give us in these areas. And I certainly support Jake in his strong comments about some of the divisiveness that really has arisen, that should not be here in this bill.

We have never had it before. There is no reason to have it now, and it concerns all of us.

[The prepared statement of Senator Hatch follows:]

STATEMENT OF

THE HONORABLE ORRIN G. HATCH

BEFORE THE

SENATE COMMITTEE ON

ENERGY AND NATURAL RESOURCES

JUNE 9, 1988

Mr. Chairman:

I would like to express my appreciation to the subcommittee for holding this hearing today. Last fall Senator Garn and I, along with 20 other co-sponsors, introduced S. 1737, authorizing an increase in the Colorado River Storage Project Ceiling.

As you are aware, Mr. Chairman, the Colorado River Storage Project encompasses individual water projects in the states of Arizona, Colorado, New Mexico, Utah and Wyoming. The project was originally authorized in 1956. The majority of the features under this proposal have been completed, however, an increase in the ceiling is needed in order to complete the long-promised features of the Central Utah Project's Bonneville Unit.

Mr. Chairman, the Central Utah Project is extremely important to the future of the state of Utah, and its completion has been of paramount importance to both Senator Garn, who has been in a key position by virtue of his Appropriation Committee position, and to me over all the years we have spent in representing the state. Senator Garn's commitment to the project has been invaluable in

bringing this project to the point at which it stands today, and we all appreciate his efforts.

You have probably heard it time and time again, but for Utahns, the wise management of water is not an after-thought; it is an ever-present reality. With the exception of the last three years, which gave us more than 185% of normal precipitation, we are one of the driest states in the country.

I have said this many times before, but this project really began as a vision of how the state and her citizens could manage and control their destiny. Thus, the Central Utah Project was designed over three decades ago as a means to manage the state's water resources. Every year the mountains of Utah receive moisture and snow (with this one year being the exception). Yet, the water would all be lost downstream without the construction of a water storage facility. The completion of the Central Utah Project, will allow the state to store water for use during dry years and transfer high-mountain waters to areas of the state which are in need of additional water supplies. I might also add that the completion of this project would give the state

greater flexibility in controlling flooding in the very few, but expensive water surplus years.

What began as a vision is now near its completion and total fulfillment, but action must be taken by both the Senate and the House in order for this to occur.

The last major storage facility, Jordanelle Dam, is now undergoing significant work. Yet, no work has been done to complete the Irrigation and Drainage System, which would take water to our farmers and ranchers in the seven Central Utah Counties of Millard, Sanpete, Juab, Sevier, Piute, Garfield and southern Utah County. For years, these farmers have been promised a water delivery system, and for years, they have been paying for it. This promise and commitment must not be overlooked.

This feature of the project is very important to the agricultural economy of the state and should not be underestimated by those who do not recognize its importance to the state. Agriculture is one of the state's biggest and most important enterprises, contributing more than $2 billion to our state's economy every year. The commitment to Duchesne County and the Ute Indian tribe is also an

important matter which should not be forgotten as we move towards completion of this project.

We have worked in close consultation with the Central Utah Water Conservancy District to decrease the authorization level necessary to complete both the municipal and industrial water features, as well as the long-promised irrigation components of the water delivery system. (Approximately $350 million.)

Mr. Chairman, I believe you will find, upon close examination a creative and cooperative approach to address the payment of these features.

Senator Garn has paved new ground for this proposal with the request to the Central Utah Water Conservancy District for a study of possible options for paying for these facilities through the use of private financing. I know that this feature is, and will be, the point of much discussion, but I would like you to know that it is our intent that if any such arrangement is ultimately adopted, it should be consistent with the Western Area Power

Administration and Colorado River Storage Project.

This has been offered as an alternative proposal to the traditional method of financing. I would like to add that I certainly have no objection to the traditional financing method; in fact, it has been reclamation law for years. We are clearly within our bounds to request it, and the committee would be well within their bounds to allow for financing in the traditional method. The main point is this, however, this project is authorized and should be completed. I simply believe that all promises which have been made should be kept by the best method available.

I continue to believe that the provisions of the House bill, which have been dropped in the Senate bill, are divisive, controversial provisions which will hold up and have a negative impact upon our ability to complete this project for rural and urban areas. These provisions are opposed by all four GOP members of the Utah delegation, the Governor of the state of Utah, and many affected parties. Yet, in recognition of some legitimate concerns of the environmental community, a provision authorizing the Fish & Wildlife Commission to undertake the implementation of

included. I must say I have some concerns with setting such a precedent and believe its focus, if adopted, must be necessarily limited in scope and duration.

Mr. Chairman, this bill contains other provisions relating to a land disposition solution to the Strawberry Water Project lands, which was negotiated last year between the Forest Service, Bureau of Reclamation, Strawberry Water Users, and the delegation, which was originally initiated by Congressman Nielsen. Additionally, there is a salinity control provision, which is designed to allow the United States to better meet its treaty obligations to Mexico by cleansing the Colorado River water of salinity.

I might add that a primary beneficiary of this proposal are the lower basin states which depend on Colorado River water for much of their water needs.

Mr. Chairman, again, I appreciate your consideration of this legislation. I am sure you recognize its importance to the state of Utah and other basin states, and I look forward to working with you and continuing to work with Senator Garn to implement an authorization ceiling which will allow the state of Utah to realize its full economic potential.

Senator BRADLEY. Well, I thank you both for your testimony.

I would just ask one question. And if you have any thoughts, I would like to hear it. And if you do not, that is fine, too. Do you have any thoughts as to who should pay for the settlement of the Ute Indian water rights?

Senator GARN. The only reason that I smile is this has been, as long as I have been here this has been a question to which we have not come up with an answer yet, although I would repeat what I said in my statement.

The tribe has a new attorney and the relationship between the delegation and the tribe as a result of this relationship, and the Indians and non-Indians in the Uinta Basin, has improved dramatically.

That does not mean the problem has been solved and there are not problems. But the working relationship is good, and both sides are working very hard on that. So I am confident, after all these years, that this good working relationship and differences can be resolved, because they are entitled to have the promises made to them over a number of years kept.

I am sure both Senator Hatch and I and the entire delegation feel very strongly that those commitments and promises made to the Indians must be kept.

Senator BRADLEY. Well, as I look at the witness list today and the clock and contemplate the fact that your substitute is as comprehensive as it is, I would like to leave the hearing record open for at least another 30 days, and I hope that if this Subcommittee has to review the legislation again, that you would be willing to come back and share with us any—or answer any questions that might have come up from the later witnesses.

Senator GARN. Of course.

Senator BRADLEY. And you can be assured that I will be listening and willing to work and sensitive to your concerns, as well as to all of the other competing concerns in this.

And I thank you so much for your testimony today.

Senator GARN. Might I just conclude by thanking you for holding this hearing and tell you one story to illustrate the importance of water. Coming from New Jersey, it is considerably more wet and damp than the State of Utah.

Senator BRADLEY. But you see, I consider Zion and Bryce part of my heritage as well. [Laughter.]

Senator GARN. In any event, several years ago when Jimmy Carter was President and he attempted to cancel not only the Central Utah project, but many others, his famous hit list, a number of western Senators both Democrats and Republicans, went down to the Oval Office to visit with him.

And we had all spoken except Barry Goldwater and, as you know—you served with Barry as well for some years—Barry was always able to get at the heart of a problem and the bottom line.

He had not spoken, and the President said to him, he said: Senator Goldwater, would you not like to add your comments? And he said: I can sum up my comments on this whole discussion by simply saying, Mr. President, we in the West value gold, women, and water, and you can fiddle around with our gold and our women, but damn you, do not touch our water. [Laughter.]

Senator BRADLEY. Thank you very much.
Our next witness is Larry Craig of the House of Representatives. Welcome to the Subcommittee and please proceed.

STATEMENT OF HON. LARRY E. CRAIG, U.S. REPRESENTATIVE FROM IDAHO

Mr. CRAIG. Senator, thank you very much for the invitation to be before your Committee to testify on S. 2102.

I will switch gears a bit from the Central Utah project, but to an issue that is on the borders of Idaho and the State of Washington on the Snake River. But I think it is interesting when I hear both the Utah Senators speak of the importance of water in the West.

As I think is reflected in the bill that I wish to support, that is before your Subcommittee, introduced by Senator McClure, I think what we also understand in the West is that we work our rivers and our water sources very hard for the value of the people and the environment, but we also strive very hard in that process to keep a balance.

So referring to my testimony this morning, Mr. Chairman, let me speak of the kind of balance that I think is reflected in S. 2102.

A good many years ago, on the lower portions of the Snake River, a river that is in itself a hard-working river for the State of Idaho, dammed along its course, used for irrigation very heavily, and for recreation, is an outstanding fishery—but many years ago, Idahoans and the West fought the battle of the high dams versus the low dams on the Snake River, the public dam versus the private dams.

And this Congress settled on three low dams in the lower portion of the Snake River, known as the Hells Canyon area, and those were to be owned by a private utility, constructed and managed accordingly.

Following that time, there were proposals for additional high dams lower down on the Snake, at about where it comes into confluence with the Clear Water River prior to entering the Columbia River. And those became heavily contested issues again.

It was the remaining free-flowing portion of the Snake River that was at issue at that time. A national recreation area was created by Senator McClure and Senator Church, the late Senator Church, and part of the reason for the creation of that national recreation area was to protect that portion of the lower Snake from any further dam building. And it was expressed very clearly at that time that it was the intent of Congress that that should not go forward.

Several months ago, a Connecticut firm began to be public about the intent to seek licensing for the purpose of exploratory efforts and ultimate construction of dams in that lower portion of the Snake.

It was at that time that Senator McClure introduced S. 2102 and I introduced the companion measure, House 4252, to speak very clearly to the fact that Idahoans and a good many westerners simply do not want to see any more dams on that portion of the Snake River, that it is the last free-flowing portion of the Hells Canyon, it is an outstanding fishery, and it has become renowned around the world as a famous jetboating and floating area, with

class two and class three rapids that are of major consequence for those who enjoy white water rafting and the rivers of the West.

What we are looking at is a proposal, now allowed to go forward by the Federal Energy Regulatory Commission through a licensure process, to allow Consolidated Hydro of Greenwich, Connecticut, and Asotin Hydro Company for studies of a proposal for dam building on 3.5 miles upstream from the Grand Ronde River of eastern Washington on the Snake.

My Senator, Jim McClure, has expressed very clearly his disappointment in FERC for going ahead to grant this permit at a time when he has already spoken, and certainly I have spoken, very clearly.

I guess the only explanation I could have for that is that bureaucrats will be bureacrats, and they attempt to flex the muscle they think they have until we convince them that they have something less than that.

The legislation that is before your Committee today is to say that very clearly, that Idahoans and westerners and the nation itself does not want, nor will it allow, dam building on this portion of this river; that it is a national treasure that deserves to be preserved; that it is an outstanding salmon and steelhead fishery.

And we are now then talking about the extension of the Snake into the Salmon River and the confluence of those two streams.

It would create an unnatural lake that would be a major impasse in our ability to continue to perpetuate the growth of the fishery that was badly damaged over the years by the construction of dams on the lower Columbia and the Snake River itself, problems that we are now working and spending millions of dollars as a nation to mitigate, to restore those fisheries, while at the same time recognizing the importance of the hydropower that is produced in the Columbia and the lower Snake.

It is a major habitat for the golden eagle, and it is one of those unique natural features that we Idahoans along with the nation would like to see preserved. And we would hope, Mr. Chairman, that in recognizing Senate Bill 2102 as Senator McClure has introduced it, that it speaks very loudly as to the intent of this Congress by the action of this Congress on it as to what we as a nation would like to see done with that lower portion of the Snake.

[The prepared statement of Mr. Craig follows:]

TESTIMONY OF

LARRY E. CRAIG

BEFORE THE SENATE SUBCOMMITTEE ON

WATER AND POWER

REGARDING

S. 2102

JUNE 9, 1988

Mr. Chairman, thank you for the invitation to join you on the Senate side to testify before the Senate Subcommittee on Water and Power. There are many people in Idaho and in the Northwest who are very concerned about the topic at hand. They are watching the progress of the legislation your committee is considering today, and I am delighted to be be a part of this very important hearing.

I would like to take this opportunity to salute Idaho's Senior Senator James McClure whose bill we are considering today. His leadership in this area is admired and greatly appreciated. As you know, I am sponsoring companion legislation to Senator McClure's S. 2102 in the House of Representatives. We have the same goal in mind.

S. 2102 and its House counterpart, H.R. 4252, seek to prohibit the licensing of dams on portions of the Snake and lower Salmon Rivers in Idaho. The reason for such legislation is simple: there are now renewed efforts to construct several dams on portions of these two beautiful rivers. This legislation is needed to prohibit the Federal Energy Regulatory Commission from licensing any dams on these pristine portions of the rivers.

These proposed dams would be in the vicinity of the Hells Canyon National Recreation Area, one of the most beautiful areas along this great river. There is great popular sentiment against any construction of new dams in the area. Senator McClure and I agree wholeheartedly on this matter.

Mr. Chairman, this is not a new issue for Idahoans. We have fought over the years to keep development off these sections of the Snake and Salmon Rivers. I believe that Senator McClure's bill in the Senate, and mine in the House will serve to send the clear message that Idahoans want these portions of their rivers to be kept as close to their natural states as possible.

A preliminary permit has been granted to a subsidiary of Consolidated Hydro of Greenwich, Connecticut, Asotin Hydro Company, for studies on a proposal to build a dam on the Snake River 3.5 miles upstream from the mouth

of the Grand Ronde River in eastern Washington. Unfortunately, we are to the point where one of the few things standing between Idaho's free-flowing river and this Connecticut company's proposed 60-foot-high dam is this legislation. We are upset with the FERC for granting this permit.

This and other massive projects proposed would have terrible side effects which must be avoided. These projects would:

* Destroy perhaps the best river boating in the United States. Idaho would lose almost 11 miles of the lower Hells Canyon of the Snake, including three class 2 and two class 3 rapids.

* Severely damage the salmon and steelhead runs on the Salmon River in Idaho and the Grand Ronde River in Oregon and Washington. It is hard to build fish ladders over a dam with a 100-foot differential between the level of the reservoir behind the dam and the level of the river below the dam. The turbines of the dams would further damage the fish populations. It has been estimated that 700,000 salmon and steelhead can be supported by this area each year; almost all of them would vanish with the damming of the river.

* Create an unnatural lake (or reservoir) from one of the nation's most grand canyons and impressive rivers.

* Damage the habitat for the golden eagle.

Mr. Chairman, having said all of the above, I still remain a supporter of Hydro development. But that support depends on the right place and the right river. In my opinion, this is the wrong place on the wrong river for damming.

Mr. Chairman, I salute Senator Jim McClure for his efforts in the Senate to save our rivers from unnecessary and damaging dam developments. We in Idaho take pride in the Snake and the Salmon rivers, and we hope you will give our proposals the hearings we think they deserve.

Thank you very much for inviting me to take part in these proceedings today.

Senator BRADLEY. Thank you very much, Congressman Craig, for your testimony. And I am sure that you speak for the beauty of the area.

Mr. CRAIG. Thank you very much, Mr. Chairman.

Senator BRADLEY. Our next witness is Congressman Wayne Owens. Welcome to the Subcommittee, Congressman Owens.

STATEMENT OF HON. WAYNE OWENS, U.S. REPRESENTATIVE FROM UTAH

Mr. OWENS. Thank you very much, Senator. I am grateful to you, Mr. Chairman, for inviting me to be here this morning and for your interest in completing this very important project for Utah.

I would ask that you insert my statement in full for the record and allow me to summarize it.

Senator BRADLEY. Your statement will be inserted in the record in full, and I appreciate your summary.

Mr. OWENS. But with no guarantee that the summary will be shorter than the text. [Laughter.]

Senator BRADLEY. You may proceed in any way you choose.

Mr. OWENS. In other words, I do not want to be shown up by my two senior colleagues from Utah in terms of time here.

Senator BRADLEY. You are free to take as much time. Any member of Congress or Senator has a luxury that the succeeding witnesses do not have. [Laughter.]

Mr. OWENS. But we have a 5-minute rule on our side, which we usually adhere to, but which I probably will not. And so I appreciate that flexibility.

Utah is a very unusual State in many ways, one of which is that 95 percent of the population lives on one side of the mountain and the water is on the other side. So the Central Utah project proposes the largest trans-basin diversion of water in the history of the United States.

Consequently, by moving that water across the mountain, we cause great biological damage to the eastern part of our State. And that in summary is the issue that has left the Utah congressional delegation so close on almost all provisions of this bill, to be in disagreement.

And I find myself on one side of the issue and my colleagues, as you heard my senior colleague, the leader of the Utah delegation, say earlier in a very straightforward way, which is Senator Garn's characteristic, we are in severe disagreement about a continuation of funding for ongoing mitigation for this severe biological damage which is caused to the eastern part of our State.

I have spent, Mr. Chairman, since last September when we introduced a bill on our side—I introduced it with my two colleagues cosponsoring it, providing for an appropriation authorization increase of $754 million. And in those nine months, it appears I have spent at least a third of my working time on this project.

I was troubled with the irrigation project, committed to its completion, but very worried about the ability to get it passed by Congress.

And I was troubled by some strange allocations by the Bureau of Reclamation of sums already spent, and then deeply surprised by

the fact that we found that, of $1.2 billion already spent on this project, only $10 million, a paltry sum, had been spent to repair the damage, environmental, fish and wildlife, which the trans-basin diversion would cause.

So what we have proposed now, the bill which Senator Garn outlined much of, we are in basic agreement on. I am proud to tell you that we have had 150 environmental and fish and wildlife organizations in Utah involved over a period of eight months in writing this legislation.

Next Wednesday, the Subcommittee on Water and Power Resources of the House, on which I serve, will meet and mark up the bill which I have introduced, and which follows much of what Senator Garn has outlined in his earlier statement today.

And except for one area, I think we are in basic clear agreement. It will provide that we complete the CUP as modified, but in a way which fulfils its full purposes. It will also recognize that we have not yet dealt with the very real obligations to the Ute Indian tribe, and it will commit Congress to an immediate and fair resolution of all claims.

And I have personally committed to the tribe that we will work this summer and I will introduce this fall legislation which I hope will solve that problem and move to complete that very real obligation.

This bill will also reduce the requested appropriation authorization increase from $754 million to less than half, approximately $370 million. And it will require that all further irrigation and drainage projects be privately financed with commercial bonds at market interest rates; and further, that all mitigation costs for further irrigation and drainage projects will also be financed with private funds.

So in that sense, a very fiscally sound, I think, approach to a very ticklish issue about which you spoke very lucidly in your opening statement.

We have no new money for environmental, fish and wildlife repairs. We simply reallocate them from worthless projects, Mr. Chairman, in my view and in the view of these 154 organizations in our State. We reallocate those funds to very genuine repairs and needed mitigation in our State, which will have genuine impact on the quality of fish and wildlife and on repairing the dam[illegible]ge which the project will do.

It scales back the amounts of water transferred from the Colorado River basin over to the Bonneville basin to a level of acceptability, from 65,000 acre-feet a year to 44,400 acre-feet a year, a very, very significant change.

It transfers responsibility for completion of the project to the Central Utah water conservancy district and dismisses, in essence, the Bureau of Reclamation from further activity in fish and wildlife mitigation, section 8 fund expenditures, to a new independent mitigation and conservation commission.

It will codify the mitigation plan for the project and require in specific terms that it be funded concurrently and proportionately for the remainder of the project. It also completes a number of outstanding fish and wildlife mitigation projects in Wyoming and Colo-

rado, and provides for two federal fish hatcheries which will serve the entire five-State region.

In a very significant step, it will require for the first time a very significant, carefully planned water conservation plan for all aspects of the project, and that is very meaningful.

It incorporates the Strawberry Water Users solution, which Congressman Nielsen has proposed. And it incorporates Senator Garn's recommendation for a wildlife refuge on the Utah Lake, which is a very courageous thing, quite frankly, for Senator Garn to propose.

It has been very controversial, and I enthusiastically endorse his proposal.

And then lastly, I hope that our bill which we mark up next Wednesday will also establish an ongoing conservation fund. This issue is a genuine issue, and I would like to address just for another minute, if I could, in closing, how important it is that we address those ongoing problems.

Now, we are agreed that this commission—the delegation has agreed that this commission, independent commission, can direct the expenditure of approximately $200 million in section 8 fish and wildlife mitigation expenditures. But should it continue after the project is completed, with funding from public power resources?

There we are very much at issue. And I kid Jake about being mealymouthed, but I have never heard him be mealymouthed and he certainly was very clear in his testimony this morning on his position on that.

Let me be equally clear. Jake and I have had a number of private conversations and understand each other well, and for someone who was beaten by Jake 16 years ago, I think we work very well together and I have great respect, not just because of that but because of our interpersonal relationship, I have great respect for the Senator.

But we are in disagreement. Utah will be severely changed by this inter-basin transportation of water and eastern Utah dewatered. Seven streams will be dried up and four major streams will be basically cut in half, the amount of water which they have at least to half of what is considered adult trout habitat.

This after we have increased sixfold, Mr. Chairman, the amount of water to be left on the eastern shore of the Colorado River basin. That changes dramatically the biology in that part of the country.

And we try to deal with that in this bill. We try to deal with it with all that we can understand. But what we are told by the experts are that there are implications long term by that drainage which must be dealt with ongoing. So those ongoing damages, millions and millions of dollars in damages, must be dealt with, and I think appropriately ought to be dealt with in this bill.

Now, there are unknown damages. There are known damages. And Mr. Chairman, there are clear implications that the known mitigation damages will need ongoing funding, or in fact the mitigation is never completed.

We provide for a lot of studies in this bill in the section 8 funds. If they are not funded when we find the results of what is needed at the completion of those studies, then of course true mitigation never happens.

So to be able to totally repair the damage of this enormous transfer of water, the only project in the Colorado River plateau, Mr. Chairman, where there is an inter-basin transfer at all and, at the point of being redundant, the largest transfer in the history of the United States, those ongoing damages must be dealt with.

They do not end when the project ends. Utah is entitled in the building of this project to assume that there will be ongoing resources available.

But I do not believe that we have either the gall or the premise on which to ask the Federal Government to continue those years of funding. But there is a resource and it is the beneficiaries of that inter-basin transportation and of the waters in the Colorado River, the power users, the public power users who receive preferential power at significantly less than market rate.

And I propose a very simple and I think respectable user fee be attached to those who benefit from the water diversion and the generation of the Colorado River waters to pay those ongoing costs.

So we are at issue on that. I hope that the bill which we mark up next week will contain that funding from that source. And I submit to you, Mr. Chairman, that is an appropriate source.

Thank you for the opportunity to testify. I would be delighted to try to respond to any questions.

[The prepared statement of Mr. Owens follows:]

OPENING STATEMENT
BY
CONGRESSMAN WAYNE OWENS
BEFORE THE
SENATE SUBCOMMITTEE ON
WATER AND POWER
JUNE 9, 1988

Utah is the second most arid state in the nation. The availability of water resources is an ultimate limitation on our growth.

Paradoxically, a major mountain range lies between 95% of our population and the state's largest water system, the Colorado River. The Central Utah Project, which diverts Utah's share of the Colorado River from tributaries high in the Uintah Mountains, and delivers it to Utah's population, is fundamental to our future prosperity.

Because of this importance, my assignment as a majority member on the House Interior Committee's Water and Power Resources Subcommittee, and my great concern that water resource development be done with the least possible compromise to Utah's unique and extraordinary natural beauty, I have made the reauthorization of the Central Utah Project my number one priority and devoted at least a third of my congressional time over the past nine months to its preparation. I acknowledge with appreciation that Senator Jake Garn has over many years carried this project through Congress, more so than any other member of our delegation.

To appreciate the significance of the bill we will mark up next Wednesday in the House Subcommittee, understand the place

from which we started. The initial proposal last fall called for $754 million to finish the CUP on which $1.2 has already been spent. This included another $400 million federal investment in Irrigation and Drainage Systems.

It presented for congressional blessing through reauthorization, a project with an indefensible environmental report card. Since the commencement of the project, of that total $1.2 billion already expended, only $10 million has been spent on direct and single purpose environmental repairs and mitigation.

We found cost allocation formulas that were strained beyond any objective justification. For example, over 75% of the cost for a major water delivery and hydropower system was being characterized as a non-reimbursable fish and wildlife expense.

Most troublesome of all, perhaps, were plans to dry up seven streams totally plus a failure to assure minimum stream flow protection for five other major rivers and streams, in order to maximize the yield of the project's trans-basin water diversions. The only partial solution that had been developed for this stream flow disaster was construction of a $50 million, Rube Goldbergian pumping system to recirculate a pittance of water over and over again in four of the twelve streams.

Next Wednesday, as I understand, the Water and Power Resources Subcommittee of the House Interior Committee will mark up a bill that will be extraordinary in its accomplishments:

1. It will provide for completion of the CUP, as modified,

but in a way in which fulfills its full purpose.

2. It will recognize that we have not yet dealt with the very real obligations to the Ute Indian Tribe, who have agreed to yield significant water rights to permit the Project to go forward, and will commit Congress to an immediate and fair resolution of all claims.

3. It will reduce the additional federal funds needed from $754 million to $370 million.

4. It will require that all further Irrigation and Drainage developments be privately financed with commercial bonds at market interest rates, rather than with taxpayer dollars.

5. It will require that all mitigation costs for further Irrigation and Drainage developments be financed with private funds.

6. It will add no new money for Environmental, Fish and Wildlife repairs and mitigation above amounts initially requested; rather, it cancels $120 million in presently proposed "fish and wildlife" projects, like the recirculating pumps, and redirects the money to projects that will better mitigate the environmental, fish and wildlife problems created by the project.

7. It will scale back the project's trans-basin diversions of water to a level of environmental rationality, and then establish minimum stream flow guarantees for 10 major streams and rivers.

8. It will transfer responsibility for completion of the project to the Central Utah Water Conservancy District which will

receive the water and repay the cost of developing it.

9. It will establish a resource oriented, totally independent Mitigation and Conservation Commission to administer the remainder of the fish and wildlife mitigation plan at severely restricted administrative expense.

10. It will codify the mitigation plan for the project and require that it be funded concurrently and proportionately for the remainder of the project.

11. It will complete a number of outstanding fish and wildlife mitigation projects in Wyoming and Colorado and provide for the construction of two federal fish hatcheries that will enhance the recreational benefits derived from CRSP facilities in the five state region.

12. It will require the development and implementation of a water conservation plan for all aspects of the project.

13. It will incorporate into its wetland mitigation plan the authorization for the development of a wildlife preserve for the eleventh most important wetland in the nation that is still unprotected, a proposal by Senator Jake Garn which I enthusiastically endorse.

14. Finally, I hope that it will also establish an ongoing conservation fund, to insure that the investments that have been made to mitigate for the project's environmental costs will be preserved, and that certain mitigation needs which we knowingly left unaddressed by this bill can be attended to, and so that funds will be available to address environmental consequences of

this project not yet identifiable.

The bill we will mark up next Wednesday will have the support of Utah's water development interests. At the same time, both the local and national environmental and conservation communities have strongly endorsed our product; over 150 local sportsmen and conservation groups have participated in its development.

This bill will be both environmentally and fiscally responsible.

The term and amount of the proposed ongoing conservation fund, as set forth in paragraph 14 above, is the single outstanding major issue left to negotiate.

Why is an ongoing financial commitment needed?

There are three major reasons. First of all, the CUP is the largest trans-basin diversion of water ever attempted in this country. One hundred sixty two (162) miles of rivers and tributary streams to the Colorado River will either suffer significantly reduced flows, be dried up entirely, or be inundated by reservoirs. Thirty miles of streams and rivers on the receiving side of Utah's Wasatch Range will also suffer reduced flows. Other river stretches that are currently among Utah's finest fisheries will be used to carry, for extended periods, twice the volume of water that nature has prepared them for, causing great damage. These are only a few of the aquatic impact statistics. The wetland and wildlife habitat implications are also significant. In short, the CUP is a massive

manipulation of nature and we are foolish if we believe we can predict in advance its total environmental consequence. An understanding of the nature of this project brings with it the responsibility to establish ongoing financial responsibility to repair its impacts.

Second, there is a long list of known adverse impacts to fish and wildlife that will not be addressed in the bill. Recognizing the Nation's current fiscal burdens, we imposed upon our efforts the constraint that we not increase the fish and wildlife and environmental mitigation budget for the project. We simply diverted amounts already scheduled to better applications. We know that there will be high water flow problems on the Provo River, for example, which may cost as much as $25 million to mitigate. There is no money in the bill to do that. We know that many of the wildlife mitigation lands being acquired need positive habitat improvements if true mitigation is to occur. There is no money in the bill to do that. The bill funds a number of studies to determine solutions to further other apparent needs, mitigation needs, but provides no money to implement the recommendations. The bills mitigation plan and environmental adequacy will be seriously compromised if no ongoing commitment is established.

Third, to complete the Central Utah Project, over $200 million in environmental mitigation will ultimately be expended. These will include stream habitat improvements to enhance the productivity of one stream to mitigate for the dewatering of

another, dikes and ponds which create new wetland habitat to mitigate for lost wetlands, and range habitat developments to compensate for crucial winter habitat inundated by the project's reservoirs. These are just examples. All such projects have ongoing maintenance costs; if they are not maintained, their mitigation value is lost. If financial responsibility is not established in this bill to assure needed maintenance, we will have guaranteed failure in our mitigation program, or will unfairly shift a significant part of the mitigation obligation to Utah's financially strapped wildlife resource agencies, and ultimately Utah's taxpayers.

The fairest means to meet the ongoing mitigation responsibility for this project, it seems to me, would be to create a modest fund from power revenues generated by CRSP hydroelectric facilities which are in, or the storage facilities for which adjoin, the state of Utah. Public Power users receive this power at the government's cost. The difference between that cost and the market value of the power represents a real, substantial and ongoing financial benefit. Yet, such power users currently make no significant contribution toward the costs of environmental repairs associated with the projects from which they benefit.

The fund we propose is, in essence, an appropriate and modest user fee, assessed against the beneficiaries of a generous preference system which will provide the federal taxpayers, who finance that preference, with a small return on their investment in the form of environmental and fish and wildlife repairs and benefits.

Senator BRADLEY. Congressman Owens, thank you very much for your testimony.

I have just one question. Could you for the Subcommittee describe what some of the ongoing costs that you alluded to might actually be?

Mr. OWENS. I do have a summary which I would like to submit for inclusion with my testimony, Mr. Chairman. And I did not bring it with me, but I will have it back over to you this morning.[1]

Senator BRADLEY. That will be fine.

Thank you very much.

Senator McClure.

Senator MCCLURE. I have no questions. Thank you.

Senator BRADLEY. Thank you very much for your testimony.

Senator GARN. Senator Bradley, could I just make one comment, so that the difference is narrowed and there is not a misunderstanding of where our difference of opinion comes. I certainly would not insult anybody's intelligence by indicating that after the project is completed that there are not ongoing difficulties that must be addressed. That is not at issue.

The issue is simply the end of the Congressman's statement of how it is financed. And I personally and the rest of the delegation do not feel that it is fair to run those public power costs up to enormous estimates, some as much as 100 mills, for that additional period of time.

There are existing agencies, both state and federal, for mitigation.

And I also have no objection, as a fiscal conservative, to the Federal Government providing for that, considering that two-thirds of the State of Utah is owned by the Federal Government, lock, stock, and barrel. Vast amounts of our land are off the local tax rolls as a result of that.

You would find it very difficult to operate the State of New Jersey if two-thirds of your land area and all the property taxes that would come from that were removed.

But I mainly just——

Senator BRADLEY. That is what the mayor of Newark says about the Port Authority of New York. [Laughter.]

Senator GARN. I wanted to narrow the issue, so the disagreement was not on the problems that need to be addressed, but how we finance that ongoing problem. And there we do have a very distinct difference of opinion.

But I also want to emphasize that this is a very complex bill, and that essentially the delegation and the Governor agree on the vast majority of this bill. Essentially, we are down to this one issue of how we finance the ongoing mitigation of those problems created by the project.

Mr. OWENS. If I might just briefly respond. By adding one or two mills, not up in the hundred category, but one or two mills to the basin fund fee, in my understanding it would more than adequately solve what I have proposed.

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[1] Not received for the record.

Senator BRADLEY. Well, I think the issue is joined and I think it is something for the Subcommittee to deliberate. And I think that it has been narrowed, the difference, very clearly.

And I think you both have the best of intentions, and we will anxiously watch what the House does next week in its markup.

Mr. OWENS. Thank you, Mr. Chairman.

Senator BRADLEY. Thank you very much, Congressman Owens, for taking the time to come over and offer us your advice.

Our next witness is Dean Shumway, who is the Director of Environmental Analysis of the Federal Energy Regulatory Commission.

Now, before you start, Mr. Shumway, I think Senator McClure would like to make a statement. You are here to testify on his bill.

STATEMENT OF HON. JAMES A. McCLURE, U.S. SENATOR FROM IDAHO

Senator MCCLURE. Mr. Chairman, thank you very much. As I indicated earlier, I would reserve my statement until the various gentlemen from Utah had had their opportunity to discuss the legislation affecting their State.

But I do want to thank you, Senator Bradley, for granting our request for this hearing on S. 2102. It is an important piece of legislation for Idaho and without your help, Mr. Chairman, we would have had great difficulty getting it up for consideration today.

More than 25 years ago, toward the end of what was a rush to tame the West's rivers, Congress approved a U.S. Army Corps of Engineers proposal to build two dams on the Snake River near Asotin, Washington, on the Idaho-Washington boundary.

By this time, most of the best sites for dams had already been used or withdrawn, and Asotin was one of those sites that was not great, but just marginal. In other words, it could be justified economically, but just barely.

It was also kind of an appendage to the discussion about whether or not we should have dams built in the upper Hells Canyon reach, the Hells Canyon that were ultimately—the dispute resolved in favor of the investor-owned utility company, Idaho Power Co., building three smaller dams in that area, rather than one massive federal dam.

It was followed by controversy over what should be done in the stretch of the Snake River below the Hells Canyon dam, and that was ultimately resolved with the passage of legislation which I sponsored creating the Hells Canyon National Recreation Area.

And at that time, it was also evident that not only were the people of Idaho opposed to the building of High Mountain Sheep or Lower Mountain Sheep or any Mountain Sheep; they also didn't want any more dams built, particularly any more dams that would be below the mouth of the Salmon River.

The Salmon River is a wholly undammed, untamed river, and is the principal, the principal but not exclusive, spawning area for the anadromous fish that come up the Columbia River chain into the State of Idaho.

The Asotin Dam would be below the mouth of the Salmon River and would be one more obstacle to both upstream and, more importantly, downstream migration of the anadromous fisheries of the

Salmon River stretch, as well as that portion of the run which used to go up the Snake River, still does to some degree go up the Snake River. They still are catching returnees below Hells Canyon Dam, and transport them across the watershed into the Salmon River tributary of the Little Salmon River on Rapid River, where there is a hatchery that preserves a portion of the salmon run that used to go up the Snake River before those dams were built.

Well, that decade of controversy over the building of the dams was resolved, and as a part of the Hells Canyon National Recreation Area the construction of the dam at Asotin was de-authorized, as part of the legislation which I introduced.

If public opinion has changed any since that time, it is even stronger today in opposition than it was at that time. Nevertheless, with the passage of time and with the passage of other legislation, the bidding has changed and we have the independent power producers, if I may use that term, the people who are not involved in the distribution and retail sale of electrical energy, that are favored and come forward today for the construction of dams on major and minor tributaries, that seek the opportunity to convert that resource into cash.

And because of that, it is no longer a question of whether or not a major utility or the Federal Government will be the entity to build the dam. We have other players that have entered the game.

Just to make sure that no one was misled as to how the people of my State feel about this issue, I introduced a simple and straightforward piece of legislation several months ago. Senate bill 2102 prohibits the Federal Energy Regulatory Commission from licensing a new dam on the Snake River between Lewiston and Hells Canyon dam or from damming the Salmon River between Long Tom Bar and its confluence with the Snake.

This legislation would permanently resolve the question of whether or not there were to be any additional dams built on the lower Salmon or the Snake River in that stretch of the river.

I do not want any more dams built on these stretches of the Snake and Salmon Rivers, and neither do my constituents. We are willing to listen to the argument for building the dams, and if the dams' proponents know of a compelling reason for building the dams, I hope they will share them with us in these hearings.

Otherwise, I suggest we approve this legislation and save everyone a lot of time and a lot of money and a lot of heartache.

Thank you very much, Mr. Chairman.

Senator BRADLEY. Thank you very much, Senator McClure, for your statement.

Mr. Shumway, for the next two witnesses, we have a ten minute limitation. If you can do it in less, it would be greatly appreciated.

STATEMENT OF DEAN L. SHUMWAY, DIRECTOR, DIVISION OF PROJECT REVIEW, OFFICE OF HYDROPOWER LICENSING, FEDERAL ENERGY REGULATORY COMMISSION

Mr. SHUMWAY. Thank you, Mr. Chairman, Mr. McClure. I appreciate this opportunity to appear before you concerning Senate bill S. 2102, which would prohibit the Commission from licensing the

construction of any dam on specific portions of the Snake and Salmon Rivers in Idaho and Washington and Oregon.

The purpose of my testimony is to address how this legislation would affect the Commission's jurisdiction and raise several technical points that may require clarification.

My views are those of the Commission staff and do not necessarily represent those of the Chairman, the Commission, or any individual Commissioner.

Under the provisions of the bill, the Commission is specifically barred from licensing the construction of any dam on the designated segments of the rivers. The bill, however, does not directly address activities on tributaries, restrict development of land along the designated segments, or address the issuance of preliminary permits or exemptions from licensing by the Commission.

If it is Congress' intent to preclude any use of the water in the specified river segment for hydropower generation, whether by construction of a dam or by some other diversion or bypass arrangement, then clarification would be useful.

The Commission records show no outstanding licenses or exemptions from licensing for projects in this portion of the Snake or Salmon Rivers which were covered by S. 2102. There is one issued preliminary permit for the proposed Upper Asotin project, which is No. 10531.

There are also two competing preliminary permit applications for an additional site on the designated reach of the Snake River about 22 miles downstream from Asotin, the Asotin project site.

Preliminary permits do not authorize construction of hydropower projects. They simply maintain priority of application for license for the term of the permit, which is normally 3 years, while the permittee conducts environmental and engineering investigations necessary to determine the feasibility of the proposed project and, if appropriate, prepare the developmental application to file with the Commission for a license.

However, where licensing is clearly prohibited, such as in the case of a stream protected from development under the Wild and Scenic Rivers Act or this bill, the Commission will not issue a preliminary permit or a license.

Subject to the necessary clarifications of the scope of the proposed legislation I have discussed, implementation of the provisions envisioned by Senate 2102 on designated segments of the Snake and Salmon Rivers could be carried out by the Commission without difficulty. Procedures similar to those used for proposed projects on streams protected by the Wild and Scenic Rivers Act could be employed.

I would be happy to answer any questions you may have regarding the impacts of this bill.

[The prepared statement of Mr. Shumway follows:]

STATEMENT OF
DEAN L. SHUMWAY, DIRECTOR,
DIVISION OF PROJECT REVIEW,
OFFICE OF HYDROPOWER LICENSING,
FEDERAL ENERGY REGULATORY COMMISSION
BEFORE THE
SUBCOMMITTEE ON WATER AND POWER
OF THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

JUNE 9, 1988

Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to appear before you concerning Senate bill S.2102, which would prohibit the Federal Energy Regulatory Commission (FERC or Commission) from licensing the construction of any dams on specified portions of the Snake and Salmon Rivers in Idaho, Oregon, and Washington. The purpose of my testimony is to address how this legislation would affect FERC's jurisdiction and raise several technical points that require clarification. My views are those of the Commission staff and do not necessarily represent those of the Chairman, the Commission, or any individual Commissioners.

The bill would bar dam construction on certain portions of the Snake and Salmon Rivers in Idaho. The FERC is specifically barred from "licensing the construction of any dam" on the designated segments of the streams. The bill does not address activities on tributaries to those segments and would thus not circumscribe any FERC jurisdiction with respect to hydropower development on such tributaries. The bill would also not

restrict development on lands along the designated segments, nor would it prohibit other water-related development in the designated segments not associated with the licensing or construction of dams.

The bill prohibits licensing the construction of any dam under the Federal Power Act but does not directly address issuance by the FERC of preliminary permits or exemptions from licensing.

Preliminary permits do not authorize construction of a hydropower project. They are issued pursuant to Section 4(f) of the Federal Power Act (16 U.S.C. 797(f)) to maintain priority of application for license during the term of the permit while the permittee conducts investigations and secures the data necessary to determine the feasibility of the proposed project and prepares an acceptable application for license. However, where licensing is clearly prohibited -- such as in the case of a stream protected from development under the Wild and Scenic Rivers Act -- the Commission will not issue a preliminary permit.

Certain small hydropower projects that qualify for an exemption from licensing do not involve construction of a dam but rely instead on some diversion/bypass arrangement. Depending on how the term "dam" is defined, parties might argue

that such hydroelectric projects on the river segments covered by S.2102 would not be barred by the bill. If it is Congress' intent to preclude any use of the water in the specified river segments for hydroelectric generation, whether by construction of a dam or by some other diversion/bypass arrangement, then clarification would be useful. Statutory language prohibiting the FERC from issuing any preliminary permit, license, or exemption from licensing for any hydropower project in the designated segments would effectuate this intent.

Commission records show no outstanding licenses or exemptions from licensing for projects in the portions of the Snake and Salmon Rivers covered by S.2102. There is, however, one issued preliminary permit. The proposed bill would preclude the licensing and development of the proposed 74 MW Upper Asotin Project, FERC Project No. 10531, currently under study pursuant to a preliminary permit issued on May 16, 1988, to the Asotin Hydro Company, Inc. There are also two pending preliminary permit applications competing for an additional site on the designated reach of the Snake River 26 miles downstream from the Upper Asotin Project site. The competing applications were filed by the Asotin Hydro Company, Inc., for the proposed 300 MW Lower Asotin Project, FERC Project No. 10530, and by the Public Utility District No. 1 of Asotin County, Washington, for the proposed 384 MW Asotin Project, FERC Project No. 10543. There is no provision in S.2102 that

would grandfather or otherwise compensate any project proposed pursuant to an issued preliminary permit or permit application currently pending before the FERC.

Subject to the necessary clarification of the scope of the proposed legislation I have discussed, implementation by the FERC of a prohibition on licensing the construction of dams in the designated segments of the Snake and Salmon Rivers, as envisioned by S.2102, could be carried out without difficulty. Procedures similar to those used for proposed projects on streams protected by the Wild and Scenic Rivers Act could be readily employed to implement the provisions of S.2102.

I would be happy to answer any questions you may have regarding the impact of S.2102 on the Commission's responsibilities.

Senator BRADLEY. Do you support the bill?

Mr. SHUMWAY. Excuse me?

Senator BRADLEY. Do you support the bill?

Mr. SHUMWAY. I do not think the Commission is in a position to support the bill. If it is passed, of course we will support the provisions in the bill.

Senator BRADLEY. Senator McClure.

Senator MCCLURE. Thank you very much. I have no questions.

I do appreciate your comment with respect to some clarification that might be useful. Certainly it is not my intention to leave any ambiguity about whether or not the hydro project should be permitted in that stretch of the river.

Thank you very much.

Senator BRADLEY. Thank you, Mr. Shumway.

Our next witness is Commissioner Dale Duvall, Bureau of Reclamation.

STATEMENT OF C. DALE DUVALL, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY CLIFFORD I. BARRETT, REGIONAL DIRECTOR, UPPER COLORADO REGION, AND CURT CARPENTER, UTAH PROJECTS MANAGER

Mr. DUVALL. Thank you, Mr. Chairman. I am pleased today to present the Administration's position on S. 1737.

I have with me Mr. Clifford I. Barrett, who is the Regional Director for the Upper Colorado Region in Salt Lake City. I have asked him to join me here at the witness table for technical support.

He has accompanying him Mr. Kirt Carpenter, who is the Utah Projects Manager, who we can call upon.

Senator BRADLEY. Would you like Mr. Carpenter at the table, Mr. Duvall?

Mr. DUVALL. I think we can go either way. If you would like to join us, Kirt.

Senator BRADLEY. Would you please limit your testimony to 10 minutes.

Mr. DUVALL. I can run through it faster than that, I believe.

The total estimated cost of the project as authorized is estimated to be $2.925 million and the current ceiling is $2.171 million——

Senator BRADLEY. Are those millions?

Mr. DUVALL. Billions of dollars, excuse me.

Therefore, a $754 million increase would be needed if the project were to be completed as authorized. The administration believes that reforms to reduce some of those costs should be included in the legislation you are considering.

On that, there seems to be considerable agreement, as has been noted by the distinguished members of the Utah delegation. How such reforms are selected may be in some question.

We are aware that the Utah delegation is continuing to work on amendments, which have not yet been introduced. Of those proposals of which we are aware, we would suggest the deletion of certain irrigation and mitigation features and we would suggest deletion of the Upalco Unit in total.

This work was discontinued in 1986 because of marginal economics resulting from the major changes needed for municipal and industrial water. Deletion would reduce the need for a ceiling increase by $93 million on the Upalco Unit.

Deletion of the identified mitigation and I&D features would reduce the need for a ceiling increase by $128,691,000.

As an additional step, non-Federal financing alternatives should be explored. Both the Public Power Development Corporation and the Central Utah Water Conservancy District have expressed an interest in funding the Diamond Fork power system.

The district offers to fund during construction the total Bonneville Unit cost allocated to commercial power. We estimate this to be $149,366,000. Thus, providing a net decrease in the appropriation requirement, extrapolated to October 1988 price levels, would further reduce the increase needed by another $109 million.

We have not yet taken a formal departmental position on the district's proposal.

We suggest the Committee consider a change in the cost-sharing requirements for fish and wildlife and recreation expenditures. As authorized, those costs are all financed by Federal appropriations and are non-reimburseable. We suggest the remaining costs of fish and wildlife and recreation features of the CRSP be financed and repaid in accordance with the Fish and Wildlife Coordination Act. This would require the same cost-sharing that is required of other reclamation projects.

I have commented on some aspects of what we understand to be the proposed amendments. There are reforms the Administration believes should be incorporated and we would suggest the following reforms:

Substantial non-Federal financing should be provided;

Non-Federal cost-sharing of fish and wildlife and recreation expenditures;

Straight line amortization over a not-to-exceed 40 year period of irrigation construction costs assigned to hydro power, similar to that enacted in the Garrison project and proposed for both the Animas-LaPlata and the Lake Andes Wagner projects;

Agricultural program payments not to exceed the amount received in the absence of the irrigation project.

Our primary interest here is to increase the appropriation ceiling. The reforms we suggest will improve the economic efficiencies of the project.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Duvall follows:]

STATEMENT OF C. DALE DUVALL
COMMISSIONER, BUREAU OF RECLAMATION
BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
ON S. 1737 TO INCREASE THE APPROPRIATION CEILING
ON THE COLORADO RIVER STORAGE PROJECT
AUTHORIZED BY PUBLIC LAW 84-485, AS AMENDED

June 9, 1988

Mr. Chairman, I am pleased to appear before your committee today to present the Administration's position on S. 1737 to increase the authorized appropriation ceiling for the Colorado River Storage Project.

The Colorado River Storage Project was authorized on April 11, 1956, pursuant to Public Law 84-485. That authorization established an appropriation ceiling of $760,000,000, not subject to indexing. Public Law 92-370, passed on August 10, 1972, increased that appropriation by $610,000,000 with indexing allowed. The total estimated costs of the Colorado River Storage Project, as authorized, is estimated to be $2,925,744,000 and the current indexed ceiling is $2,171,308,000. Therefore, an increase of $754,436,000 at October 1988 price levels is needed to complete the project as authorized. In our letter dated January 26, 1983, the Congress was advised that the cost of constructing the Colorado River Storage Project would exceed the appropriation ceiling as adjusted by indexing. This additional authorization is necessary because the estimated cost of this project has increased. To accommodate a higher budget level, the Administration believes that reforms to reduce some of those costs should also be included in the legislation you are considering.

We are aware that the Utah delegation is continuing to work on amendments to the legislation. However, those amendments have not yet been introduced as alternative legislation, and we have not been able to analyze them and develop formal positions.

Of those proposals of which we are aware, we would suggest the following be included in the current legislation:

1. Deletion of certain Bonneville Unit, CUP, irrigation and mitigation features. These deletions would include the Mosida pumping plant, canals, and laterals and the Bjorkman Hollow Dam, Deep Creek Pumping Plant, and North Fork Pumping Plant. Deleting this combination of irrigation and mitigation features provides a much more economical plan to meet instream flow requirements for fish by trading off a costly irrigation increment. The deletion of these features will reduce the total cost of the project, and the need for a ceiling increase by $128,691,000 (October 1988 prices).

2. Deletion of the Upalco Unit, CUP, in total. Work on this unit was discontinued by the Bureau in 1986 because of its marginal economics resulting from the major changes in the region's needs for municipal and industrial water. Deletion of the Upalco Unit would reduce the need for a ceiling increase by $93,333,000 (October 1988 prices).

As an additional step to decrease the need for Federal appropriations, non-Federal financing alternatives should be explored. We understand that the Public Power Development Corporation and the Central Utah Water Conservancy District have expressed an interest in funding construction of the Diamond Fork Power System of the Bonneville Unit. In the proposal made to the Department of the Interior, the District offers to fund during the construction period an amount equal to the total Bonneville Unit cost allocated to commercial power. We estimate this to be $149,366,000 (January 1987 prices). The addition of single purpose commercial power features to the project as now planned will add $44,805,000 to the total cost, thus providing a net decrease in the appropriation requirement of $104,561,000, (January 1987 prices). That amount based upon the October 1988 price levels used for the proposed legislation would be about a $109 million decrease. We do not yet have a position on the District's proposal.

In order to further reduce Federal expenditures for the project, we suggest that the Committee consider a change in the cost sharing requirements for fish and wildlife and recreation expenditures. As authorized by Section 8 of the Act of April 11, 1956 (P.L. 84-485), those costs are all financed by Federal appropriations and are nonreimbursable. We suggest that the remaining costs of fish and wildlife and recreation features of the CRSP be financed and repaid in accordance with the Fish and Wildlife Coordination Act, as amended, by the Federal Water Project Recreation Act, as further amended, instead of in accordance with Section 8 of P.L. 84-485, which provides that all these costs be "nonreimbursable and nonreturnable". This change would require the same cost sharing for those purposes that is required of other Reclamation projects.

The environmental impacts of the Bonneville Unit have been fully evaluated; mitigation plans have been developed, reviewed, and concurred in; the National Environmental Policy act has been complied with; and, mitigation is being accomplished in conjunction with the construction of the Central Utah Project.

Mr. Chairman, I have commented on some aspects of what we understand to be the proposed amendments. There are reforms that the Administration believes should be incorporated to help limit the cost increase for this project. We would like to suggest the following reforms to the Committee:

° provision of substantial non-Federal financing, which we note already is being considered by Congress;

° non-Federal cost sharing of fish and wildlife and recreation expenditures, as discussed above.

° straight line amortization over a period not to exceed 40 years of irrigation construction costs assigned to hydropower for repayment, similar to that already enacted into law in the Garrison Project and proposed for Animas-LaPlata and Lake Andes Wagner Projects; and

° Department of Agriculture program payments not to exceed the amount otherwise received in the absence of the irrigation project -- no USDA payments based on yields due to project irrigation.

Our primary interest is to increase the appropriation ceiling for the Colorado River Storage Project. We are confident that the reforms we suggest will improve the economic efficiencies of the project. The project is environmentally sound.

Mr. Chairman, this completes my statement. I will be pleased to answer any questions you may have.

Senator BRADLEY. Thank you very much, Mr. Duvall.

I wonder, could you tell us how much will have been spent on the Bonneville unit by the end of this fiscal year?

[Pause.]

Mr. BARRETT. The allotments through fiscal year 1988 would be $797 million.

Senator BRADLEY. That is how much will have been spent?

Mr. BARRETT. If we accomplish the 1988 program 100 percent, yes, sir.

Senator BRADLEY. Please bring the microphone to your mouth so I can hear you.

Mr. BARRETT. That is assuming if you spend all of the money which is appropriated for fiscal year 1988, then the total expenditures through that year would be $797 million.

Senator BRADLEY. What is the allocation of those costs to project purposes?

Mr. BARRETT. Of the costs spent to date?

Senator BRADLEY. Yes, of the $797 million, what is the allocation?

Mr. BARRETT. I think we would have to furnish that for the record, sir. I do not have those numbers broken down quite that way. We have them for the total project, but not for the project expenditures through that date exactly.

Senator BRADLEY. So you will provide that for the record?

Mr. BARRETT. Yes, we can provide that for the record.

[The material referred to follows:]

The allocations by function for expenditures through Fiscal Year 1988 are as follows:

Irrigation	$390,742,000
Power	11,390,000
Municipal and Industrial	267,419,000
Flood Control	11,980,000
Fish and Wildlife	102,324,000
Highway Improvement	13,495,000
Recreation	0
Total	797,350,000

Senator BRADLEY. You do not have a chart or something that you kind of keep updated?

Mr. BARRETT. Not that quite matches that set of numbers, sir.

Senator BRADLEY. All right, fine.

In your view, how much additional money is needed to complete the unit?

Mr. BARRETT. The Bonneville Unit is in the neighborhood of $644 million. The total CRSP ceiling requirement is $754 million.

Senator BRADLEY. So you do not think that a figure of under $400 million will complete the unit?

Mr. DUVALL. Not without some of the reforms that are being considered in this legislation.

Senator BRADLEY. Of the additional $644 million, how will those be allocated?

Mr. DUVALL. I think we should submit that for the record, too, because the number that we have in the 1988 budget, if we take the presumption that that number is what we are going to detail for you, then we will give you a breakdown that shows how the re-

maining costs are to be spent at the same time that we can give you the breakdown on how we have allocated the costs that have been spent to date.

[The material referred to follows:]

The allocations for the Bonneville Unit, Central Utah Project, for the balance to complete after Fiscal Year 1989 are:

Irrigation	$404,596,000
Municipal and Industrial	42,391,000
Flood Control	2,095,000
Fish and Wildlife	168,260,000
Recreation	27,158,000
Highway Improvements	114,000
Total	644,614,000

Senator BRADLEY. You do not have those now?

Mr. DUVALL. We do not have them. That would tie back into this $757 million.

Senator BRADLEY. OK.

Assuming the irrigation and drainage portion of the project is federally constructed in accordance with current law, when would repayment begin?

Mr. BARRETT. The current schedule is to have the project completed by 1995. Then on the irrigation system, there is generally a development period of about five years, which would mean the repayment would start in year 2000 for water users for the I&D system.

Senator BRADLEY. How much of the irrigation costs would be repaid by water users and how much by the power customers?

Mr. BARRETT. The repayment contract with the district requires water users to pay up to their ability to pay, which is currently computed to be $16.4 million. The irrigation investment is $3,966 per acre.

Senator BRADLEY. Please speak more slowly. I cannot understand you.

Mr. BARRETT. The irrigation investment per acre is $3,966 per acre. And the irrigators would repay only $66 of that. The rest of it would come from power revenue.

Senator BRADLEY. It would come from power revenue?

Mr. BARRETT. Yes, sir.

Senator BRADLEY. Do you have a breakdown on that?

Mr. BARRETT. Yes. The total irrigation investment per acre is $3,966. The irrigators would repay $66. The power revenues would repay $3,897.

Senator BRADLEY. If the irrigation portion of the unit is not completed or is not constructed, what happens as far as repayment of irrigation costs already expended?

Mr. DUVALL. The costs that have been expended to date on the collector system in the upstream facilities would be dropped out of the project if irrigation were discontinued altogether. Those costs would be reallocated to other beneficial purposes within the project.

Senator BRADLEY. What about repayment?

Mr. DUVALL. They would be reallocated for repayment purposes.

Senator BRADLEY. I do not follow. Could you make this clear?

Mr. BARRETT. We will try to, sir. In the event that the irrigation portion of the project was not built, absent any other direction from Congress, we would then be required by law to take the total investment to date and allocate those costs to the purposes which were going to be served, which would basically be your M&I system and some recreation and fish and wildlife features.

So, in essence, what would happen would be that nearly all of the costs sunk to date for irrigation would end up being picked up by M&I, municipal and industrial water users.

Senator BRADLEY. So that if the irrigation unit is not constructed, the amount of irrigation expenditures to date would be picked up by the local municipal users?

Mr. BARRETT. A large portion of them would be. We would take the total cost of the project and allocate those costs out to the various functions which are served, but without irrigation.

The only other water user is M&I. There would be some allocation, of course, to fish and wildlife and recreation and those other features.

Senator BRADLEY. So that you would see a dramatic increase in rates, basically?

Mr. BARRETT. Absent any other direction from Congress, that is what we would have to do.

Senator BRADLEY. If irrigation is not constructed, is there an opportunity to use the surplus capacity of the project to provide additional municipal and industrial water supplies?

Mr. BARRETT. Yes, sir. And I believe some of the people who will testify later from Utah can address that better, but I'm quite sure that their growth projections and their projections of demand for water would indicate that there would be a use for that water.

Senator BRADLEY. How much money has been spent so far to mitigate environmental damage?

Mr. DUVALL. The total costs for environmental mitigation are in the range of $103 million.

Senator BRADLEY. 100 and what?

Mr. DUVALL. $103 million.

Senator BRADLEY. Do you mean the Bureau has spent $103 million on features that directly targeted environmental mitigation and that would not have been built otherwise?

Mr. DUVALL. Well, to clarify what we have in mitigation, there are two types of mitigation costs. There are section 5 mitigation costs, which generally include joint facilities; and there are section 8 mitigation costs, which are stand-alone mitigation features.

Senator BRADLEY. What are those in English? Could you describe those?

Mr. BARRETT. Let me give you an example, sir. If part of the mitigation program requires a storage of water so that you can later guarantee certain flows down a river to mitigate for the damage, then a certain part of the cost of the dam which creates that storage is allocated as a mitigation feature, because you would not build it that way otherwise.

So in section 5, we have the joint use of many features which have in them an increment added for mitigation purposes.

Senator BRADLEY. So that you include, if there is a big tunnel that is built for power production, you include that as a possible mitigation?

Mr. BARRETT. Only if it had a specific mitigation increment in it. Generally, it falls into reservoirs, and in one case there's a pipeline which we are allocating to mitigation because it has a very specific mitigation feature.

On the other hand, section 8 then are the single purpose mitigation features. The total of those two is $103 million to date.

Senator BRADLEY. Could you provide for the record a specific breakdown of how that $103 million has been spent?

Mr. BARRETT. We would be glad to do that. We furnished that for the the record in the House. We will furnish it again here.

[The material referred to follows:]

A breakdown of the Bonneville Unit, CUP Fish and Wildlife expenditures of $103,658,000 made to September 30, 1987, follows:

Expenditures, September 30, 1987

Collection system:	
Starvation Dam and Reservoir	$2,825,000
Upper Stillwater Dam and Reservoir	36,485,744
Currant Creek Dam and Reservoir	3,894,082
Soldier Creek Dam and Reservoir	43,040,833
Bottle Hollow Dam and Reservoir	1,234,576
Mitigation measures	8,984,604
Lower Stillwater Dam and Reservoir	127,448
Municipal and industrial system:	
Jordanelle Dam and Reservoir	4,135,162
Upper Provo River improvements	50,281
Indian Ford pumping plant	20,311
Diamond Fork System:	
Monks Hollow Dam and Reservoir	534,162
Diamond Fork pipeline	749,783
Syar Tunnel	1,263,469
Fifth water Aqueduct	36,973
Last Chance powerplant	10,640
Other project costs:	
Utah Lake Water rights	35
Starvation Dam supplemental costs	154,497
Leland Bench investigations	6,815
Diamond Fork abandoned investigations	71,000
Permanent operating facilities	30,606
O&M housing	128
Total	103,658,149

Senator BRADLEY. Would you say that the funding allocated so far is sufficient to mitigate the effects of construction?

Mr. DUVALL. I would say that what we have spent to date, on the basis of the progress of the construction that has taken place, that we are somewhere in the neighborhood of the 90 to 95 percent concurrency level. That is based upon the realization that when we build a tunnel, as you describe, for the Strawberry collector system, until we start diverting the water then we really have not effectively caused any impact to the fisheries downstream or to the in-stream needs, so we're continuing to release all of the water.

So on that kind of a basis, our records indicate that we are at the 90 to 95 percent concurrency level.

Senator BRADLEY. Well, how much of the money authorized under 737 or alternative proposals will be needed for environmental mitigation? How much of the $644 million?

Mr. BARRETT. Of the $644 million which is remaining, $168 million would be for fish and wildlife separate features, specific features.

Senator BRADLEY. How much?

Mr. BARRETT. Let me correct myself on that. It is $168 million for all mitigation, separate and joint costs.

Senator BRADLEY. $168 million?

Mr. BARRETT. Yes, sir.

Senator BRADLEY. Of the $644 million, $168 million is all you need for mitigation?

Mr. BARRETT. Yes, sir.

Senator BRADLEY. Okay. Do you have any other? Did you want to elaborate on that, Mr. Duvall?

Mr. DUVALL. Well, I would rather not, because I don't want to conflict with what he says on it. [Laughter.]

He is more technically onto those numbers than I am, and I don't mind admitting that.

Senator BRADLEY. The project data sheets provided by the Bureau in their budget submission allocate $361 million of the CUP's estimated $2 billion cost to fish and wildlife.

Mr. BARRETT. Yes, sir.

Senator BRADLEY. Is that how much the Bureau actually expects to spend?

Mr. BARRETT. Under the plan which is in our current definite plan report, which relates to these budget documents submitted for fiscal year 1989, the total project cost allocated to fish and wildlife is $361 million. As we have testified earlier, we support the deletion of some very costly mitigation features which everyone agrees in the State of Utah are not effective, and that would bring that number down.

Senator BRADLEY. So is that what you will actually spend, $361 million?

Mr. BARRETT. If you build the project as currently defined in the definite plan report. But I amend that by saying I don't think there's anybody in this room who thinks the project really ought to include some of those features, and so it would come down.

Senator BRADLEY. How much will the Bureau spend on actual mitigation of fish and wildlife problems?

Mr. DUVALL. I think that depends upon the ultimate project that is going to be built.

Senator BRADLEY. Well, in your project data sheets, do you know what you've allocated to actual expenditure on fish and wildlife mitigation?

Mr. DUVALL. The definite plan report that is in the budget documents is for this $361 million. That's where that number came from.

Senator BRADLEY. Well, in the project data sheets under "summarized financial data," only $132 million is attributed to fish and wildlife costs.

Can you help me there explain that?

Mr. BARRETT. If you could refer, sir, to the number you're looking at in the project data sheet, maybe we could.

Senator BRADLEY. All right. What we will do is, rather than take the Committee time now, what we will do is we will get it to you and then we will hear back from you on it.

Mr. DUVALL. That is fine.

Senator BRADLEY. Senator McClure, do you have any questions?

Senator MCCLURE. Just this one question. With respect to the fish and wildlife costs and mitigation, there are some indirect costs that are not fully—they are not allocated. They are indirect effects that many people believe are costs.

Similarly, there are indirect benefits which are not calculated as well; is that not correct, typically, in an irrigation project?

Mr. BARRETT. Let me address that. When you formulate the project, we go through a drill required by the Fish and Wildlife Coordination Act in which we sit down with all of the wildlife resource agencies. The Fish and Wildlife Service, the State Department of Wildlife Resources, the Forest Service, and the Bureau in this case, have sat down and examined the project to determine what are the adverse impacts of that project.

Then we develop mitigation plans to mitigate for the damages. The cost of those mitigation plans is included in the project costs.

In addition, there are enhancement features which more than mitigate; they make it better than it was before. In those cases, those costs are then added to the project costs.

But the benefits of that enhancement come into the B–C ratio as a positive increment to the benefit-cost ratio due to enhancement.

Senator MCCLURE. You do two things. One is you have a benefit-cost ratio which looks at indirect costs and indirect benefits, as well as direct costs and direct benefits.

Mr. BARRETT. Yes, sir.

Senator MCCLURE. The second thing that you have is the actual expenditures that are made to mitigate.

Mr. BARRETT. Yes, sir.

Senator MCCLURE. What I was getting at was the first with respect to making certain that we do not look only at dollars that are included in expenditures to determine either costs or benefit, and that it is correct to say that the dollars expended are not—do not measure either the costs of the project in indirect costs, nor do they measure in the indirect benefits. Is that not correct?

Your expenditure levels are not the same thing as your B–C ratios?

Mr. BARRETT. Our total costs include all of the costs, both direct and indirect.

Senator MCCLURE. Your total costs, but not your total expenditures. When you look at a benefits-cost ratio, you include things for which there are no dollar amounts expended.

Mr. BARRETT. As a cost?

Senator MCCLURE. As a cost.

Mr. BARRETT. I do not believe so, sir. I think our benefit-cost ratios are actual estimated costs of doing work as compared to the benefits you derived from doing that work.

Senator MCCLURE. When you look at the benefit of a project, you try to measure in dollar terms what the economic benefits are.

When you look at fish and wildlife, some of the fish and wildlife costs are included as dollar items in a B–C ratio.

Mr. BARRETT. Yes, sir.

Senator MCCLURE. I would submit not all are, either on the benefit side or the cost side, what you have down here as a benefit to the project in an expenditure side with respect to the enhancement of the Upland Game Bird Habitat, as an example.

Mr. DUVALL. I think perhaps what you are saying, if I am reading your line of reasoning correctly, Senator, is that when we build a project there are other benefits that are not necessarily measured as part of the benefits that are taken into consideration.

Senator MCCLURE. And there are other costs.

Mr. DUVALL. And there may be some other costs.

Senator MCCLURE. That is exactly the point I am trying to make.

Mr. BARRETT. But I think, sir, if I can help, as you look at the Colorado River Storage Project as a total, in the whole CRSP system there are a number of major expenditures for fish and wildlife features, such as fish hatcheries and the like, for which we have not accumulated in our B–C ratio any benefits.

Senator MCCLURE. I am not talking about those things for which you made direct dollar expenditures. I am talking about those things for which you did not. Now, there are some fish and wildlife costs that are not covered by a project expenditure item that you expend for mitigation, that you do not appropriate for damage.

There are benefits which do not flow solely from an expenditure assigned to that particular purpose.

Mr. DUVALL. That is right.

Senator MCCLURE. There are no dollars that are matched in your budget submission to that benefit, is that correct?

Mr. BARRETT. I think I am understanding you now, sir. And yes, that is correct.

Senator MCCLURE. So you have a B–C ratio that justifies the project initially that attempts to measure some of the indirect costs and some of the indirect benefits. And that B–C ratio is not necessarily followed by an appropriation dollar for dollar of all the items that are included in the benefit-cost analysis.

Mr. DUVALL. That is entirely correct.

Senator MCCLURE. So that you do have some costs quite appropriately raised by critics of the project that are not included as a project cost as they look at your budget documents.

But it is also fair to say that there are some benefits that are not included in your budget documents, that nevertheless flow as benefits from the construction of the project.

Mr. DUVALL. That is correct.

Senator MCCLURE. Is that not correct?

Mr. DUVALL. Yes.

Senator MCCLURE. So we have to be careful when we are looking at the budget documents that we are not overlooking the fact that the budget documents do not necessarily look at the B–C ratio which was used to justify the project in the first place.

Now, one of the reasons I take a little time, Mr. Chairman, to do that is there were in 1965 certain basic agreements arrived at among a lot of parties, and that is a long, long time ago for most people in this room, but not for everyone.

I was in the House Committee on Interior and Insular Affairs when Congressman Burton from Utah was the principal proponent of this piece of legislation, and I worked with him as this project was authorized. And the project has changed a lot since 1967–68, when it was authorized.

It has changed a lot in its application, and what we see is a comparison of budget documents without really having very much analyzed the B–C ratios and the changes that occur in B–C ratios as a result of the changes in the project. It is easy to track the budgetary impact, but there is not a parallel changing in the benefit-cost ratio.

Is that not fair to say?

Mr. DUVALL. I think that is correct.

Senator MCCLURE. Thank you very much.

Senator BRADLEY. Thank you, Senator McClure.

Let me just ask you gentlemen one last question. What do you think the effect would be of failing to resolve the Ute claims?

Mr. DUVALL. Well, it is my understanding that the Federal Government has an understanding and a commitment with the Utes to go back to the negotiating table and to resolve those.

Senator BRADLEY. But let me ask the party there at the end. What is your name, sir?

Mr. CARPENTER. Kirt Carpenter.

Senator BRADLEY. What do you think the effect would be of a failure to resolve the Ute Indian claims?

Mr. CARPENTER. Well, I have had a lot of experience in dealing with the tribe, and I think what we have is a group of people that is in a fairly helpless situation in regard to this total issue.

That is the deferral agreement. If you analyze it, you will find that the deferral agreement is not clear as to the obligation of the United States. Also, it is not totally clear as to who has the responsibility for final payment, although the implication is that it would be the Congress.

Senator BRADLEY. Who else—as you read it, who else do you think it could be?

Mr. CARPENTER. Well, I think what the intent of the original deferral agreement was is that there is an obligation that needs to be negotiated between the State of Utah and the Central Utah Water Conservancy District and the United States.

And as you read that, there are——

Senator BRADLEY. So you are saying the water users could pay the settlement, is that it? Is that what you are saying?

Mr. CARPENTER. I think there is an obligation that needs to be negotiated, and that needs to be a tripartite type negotiation between the three entities that are involved.

Senator BRADLEY. The State of Utah, the water users, and the Federal Government?

Mr. CARPENTER. That is correct, yes, sir.

Senator BRADLEY. Well, what do you think the effect would be on the project if you could not get this resolved?

Mr. CARPENTER. Assuming that the water is left in the Uinta Basin under the in-stream flow agreement, it is my opinion that there will be very little damage, except for a change in diversion

point, to the Indian tribe itself, because what you are talking about is the 48,000 acre-feet that you referred to earlier.

The in-stream flow agreement has a total water amount of 44,400, so the net effect is very small on the depletion as it relates to the tribe from the Uinta Basin. The negotiation there would involve a change in the diversion point.

So there is some consideration to be given to that kind of an approach, which the negotiating team has, as of yet, not approached.

Senator BRADLEY. I am sorry. Would you help me on that again? What are you suggesting?

Mr. CARPENTER. Well, what I am suggesting is that one of the options is assuming that the water is left in the Uinta Basin via the medium of the in-stream flow agreement, that the diversion from Rock Creek for municipal and industrial water or irrigation water, whatever priority that particular diversion is used for, that the net effect as a result of leaving the in-stream flow agreement water which this bill addresses would have very little impact in terms of the net water that is being diverted from the tribe.

So I think the obligation to the deferral agreement would be lessened considerably as opposed to what it would have been had the full trans-basin diversion been made.

Senator BRADLEY. Now, but a decision has not been taken on that, is that correct?

Mr. CARPENTER. That decision has not been made, that is correct.

Senator BRADLEY. And who would make that decision?

Mr. CARPENTER. The negotiating team, which Mr. Barrett chairs, and of which I am a member, is just beginning negotiations with the tribe.

The tribe has recently given us a resolution as to what their position is and we are just beginning discussions. This could be one option, and those options are currently being arrayed, which will in turn be presented to the Administration for some kind of a recommended decision.

Senator BRADLEY. So the suggestion you are making is that the tribe keeps some waters and gets less dollars, as opposed to giving up more water and getting more dollars?

Mr. CARPENTER. That is correct.

Senator BRADLEY. When do you think the negotiations will be complete, Mr. Barrett?

Mr. BARRETT. We had our very first meeting with the Indian tribe with this particular negotiating team. There is a long history of negotiations with the tribe. The Department formed a new negotiations team just recently. We had our very first meeting with the tribal business committee last Friday.

Our commitment to them and my charge from the Department is to reach some resolution which we can forward through the Department to the Congress before the end of this calendar year.

Senator BRADLEY. Before the end of 1988?

Mr. BARRETT. Yes, sir. That is our goal and that is what I have been told to do and we will work at it.

Senator BRADLEY. OK.

Let me thank you all very much for your testimony, and I would hope that you would be able to amplify your comments so that they are directed at all of the provisions of the substitute that Senator

Garn introduced. I hope as well that you know that the record will stay open for 30 days for you to make those comments, and that you will be willing to return to the Committee if a subsequent hearing on this bill is required, as it very well might.

Mr. DUVALL. We would be happy to comply.

Senator BRADLEY. Thank you very much.

We now begin a series of panels, and we are going to operate under different rules. The panel is: John Echeverria, General Counsel, American Rivers; Lynn Greenwalt, Resources Conservation, National Wildlife Federation; Lynn A. Greenwalt, Resources Conservation, National Wildlife Federation.

And if these panelists would take their positions. We have 15 witnesses remaining and about an hour or maybe an hour and 15 minutes to try to get through this. So would the witnesses limit their statements to 5 minutes. It would be helpful if you could summarize.

It really does not help the committee to hear the same facts repeated by 15 witnesses. And so if you could tell us what your particular point of view is and direct it at specific aspects that are most important to you in the legislation, it would facilitate the remainder of this hearing.

Mr. Echeverria.

STATEMENT OF JOHN D. ECHEVERRIA, GENERAL COUNSEL, AMERICAN RIVERS, INC.

Mr. ECHEVERRIA. Thank you very much, Senator Bradley. I am the general counsel of American Rivers and Director of its national center for hydropower policy. American Rivers is the nation's principal river conservation organization, with approximately 10,000 members across the country.

Senator MCCLURE. Can you pull the mike a little closer, please.

Mr. ECHEVERRIA. Our written testimony addresses both S. 2102, the bill to establish a hydro ban on the Salmon and the Snake River, and also S. 1737, dealing with the Central Utah project.

In the interest of conserving time and because subsequent witnesses will address the Central Utah project in detail, I will focus my oral comments on Senator McClure's bill relating to the Snake and the Salmon.

This bill we believe would provide needed statutory protection for two significant stretches of the Salmon and Snake Rivers in Idaho. Section 1 of the bill would prohibit the Federal Energy Regulatory Commission from issuing licenses authorizing the construction of hydroelectric dams on the protected segments.

Section 2 appears to more broadly prohibit any dam on the specified segments. As we understand it, the protected section of the Salmon River would extend from the end of the existing designated wild and scenic segment to the confluence with the Snake River.

The protected section of the Snake would extend from the granite dam reservoir south to the northern end of the designated wild and scenic segment of the Snake.

We point out that federal agencies have studied both of these rivers for possible inclusion in the federal wild and scenic rivers system and have recommended that they be included. These re-

ports are a 1984 Service recommendation and a 1980 National Park Service report.

While we applaud the objective of this bill, we would recommend and prefer to see that the Subcommittee amend the bill in order to add these proposed river segments to the wild and scenic rivers system.

We believe very strongly that a water course and its associated lands are a unit and ought to be managed as a unit. The Wild and Scenic Rivers Act achieves that objective by establishing a quarter mile corridor on each side of a river and providing for comprehensive management of the river and associated land uses.

Nevertheless, if the Committee proceeds with its more narrow approach we would certainly support the legislative effort. Hydroelectric development, and the Asotin project in particular, is the most immediate and significant threat to these rivers, and this bill deals with that threat in a direct and immediate way.

Furthermore, we would hope that this important first step would not necessarily preclude future consideration of these stretches for federal wild and scenic designation. Assuming the Committee proceeds with this relatively more narrow approach, I would like to echo the comments of Dean Shumway that the bill should be clarified in certain particulars to make sure that it encompasses all types of hydroelectric development, and in particular that it provides full protection for the water course.

We would suggest one way to achieve that would be to incorporate into this bill section 7 of the Wild and Scenic Rivers Act. As you know, that protects a designated water course, not only from the construction of dams but from water conduits, reservoirs, power houses, transmission lines, and other project works under the Federal Power Act, and also any federal water resource project that has a direct and adverse effect on the free-flowing nature of a river.

Similarly, section 9 provides important protection for a water course by prohibiting mining in and adjacent to the water course.

In short, to the extent that the purpose of this bill is to protect the water course—and we understand that is in fact its purpose—we recommend that the Subcommittee adopt a more comprehensive approach to achieve that purpose.

Thank you very much.

[The prepared statement of Mr. Echeverria follows:]

TESTIMONY OF JOHN D. ECHEVERRIA
AMERICAN RIVERS, INC.
ON S. 2102 AND
PROPOSED ADDITIONAL AUTHORIZATION FOR
THE COLORADO RIVER STORAGE PROJECT
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON WATER AND POWER

JUNE 9, 1988

Mr. Chairman, members of the Committee, my name is John Echeverria, and I am the General Counsel of American Rivers and the Director of its National Center for Hydropower Policy. American Rivers is the nation's principal river conservation organization with approximately 10,000 members across the country.

I wish to emphasize at the outset that American Rivers is not opposed to well-sited, carefully operated hydroelectric facilities. We believe that hydropower makes and will continue to make an important contribution to the nation's energy needs. The exploitation of rivers for hydropower must be balanced, however, with appropriate statutory protections and regulatory controls to ensure the preservation of outstanding natural rivers. It is with that philosophy in mind that I address S. 2102 as well as the proposed additional authorization for the Colorado River Storage Project.

S. 2102 would provide needed statutory protection for two significant stretches of the Salmon and Snake Rivers in Idaho. Section 1 of the bill would prohibit the Federal Energy Regulatory Commission from issuing licenses authorizing the construction of hydroelectric dams on the protected segments.

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Section 2 would more broadly prohibit "any dam" on the specified segments. The protected section of the Salmon River would extend from the end of the existing designated wild and scenic segment to the confluence with the Snake River. The protected section of the Snake would extend from the Granite Dam reservoir south to the northern end of the designated wild and scenic segment of the Snake.

Federal agencies have studied both of these river sections and have recommended them for inclusion in the Federal and Wild and Scenic Rivers System. In 1980 the Forest Service recommended to Congress that approximately 237 miles of the Salmon River be included in the Federal System, including the section that would be protected by this bill. In a study report issued in February 1980 the National Park Service concluded that the segment of the lower Snake that would be protected by this bill should be included in the Federal System.

While we applaud the objectives of S. 2102, we recommend that the Subcommittee consider amending the bill in order to add these river segments to the Wild and Scenic Rivers System. American Rivers believes strongly that a watercourse and its associated lands must be protected and managed as a unit to protect the values that make the river suitable for inclusion in the System. The Wild and Scenic Rivers Act achieves that objective by providing for the establishment of a one-quarter mile buffer zone on either side of a designated wild and scenic river. In addition, land and water uses other than dam construction can threaten the values of a potential wild and scenic river, and the Wild and Scenic Rivers Act provides the appropriate framework to deal with all major threats to wild and scenic rivers.

If the Committee nonetheless elects to protect the watercourse alone, rather than to establish wild and scenic protection, American Rivers will support the legislation. Hydroelectric development represents the most immediate and significant threat to these river segments, and this bill certainly deals with that threat in a direct and effective way. Furthermore, we would hope that this important first step would not preclude future consideration of these segments for wild and scenic designation.

Assuming the Subcommittee decides not to establish wild and scenic protection in this bill, we recommend that the Subcommittee amend the bill to incorporate certain provisions of the Wild and Scenic Rivers Act to provide more protection for the free-flowing nature of these rivers. As you know Section 7(a) of the Wild and Scenic Rivers Act protects the watercourse of a designated river from the construction of not only dams, but also water conduits, reservoirs, powerhouses, transmission lines and other project works under the Federal Power Act and also any federal water resource project that has a direct and adverse effect on the free-flowing nature of the river including, for example, diversions and channelization projects. Similarly, section 9 of the Wild and Scenic Rivers provides important protection for the watercourse by prohibiting mining in and adjacent to the watercourse. In short, to the extent that the purpose of this bill is to protect the watercourse, and we understand that is the purpose, we recommend that the Subcommittee adopt a more comprehensive approach than that contained in the present bill to achieve that purpose.

Finally, I would like to comment briefly on one aspect of the proposed increase in authorization for the Colorado River Storage Project. As you know, in January 1988 the Department of the Interior released the Glen Canyon

Environmental Studies Final Report. Among the principal findings of the report are the following: first, that certain aspects of the operation of the Glen Canyon Dam are having substantial adverse effects on downstream environmental and recreational resources; and, second, that modified operations of the dam could protect or enhance those resources.

Unfortunately, all present indications are that the Department of Interior has no intention of acting upon the lessons of this study or of adopting appropriate modifications to the Glen Canyon Dam. More distressing still, it appears that the Department does not intend to conduct further studies on the effects of the operation of Glen Canyon Dam in conformity with the requirements of the National Environmental Policy Act. As a result, the Department is not setting a course that will ensure that it can make defensible and rational modifications to the operation of the dam in the long term.

The proposed House bill contains certain language to encourage the completion of necessary further scientific research on the effect of the dam's operations. American Rivers believes that this provision is an appropriate starting place, but that it should be amended to make clear that any future studies will be conducted in conformity with the National Environmental Policy Act. In addition, we suggest that the Subcommittee adopt language to require certain minimal, short-term modifications in the operation of the dam to abate immediate, ongoing environmental degradation in the Grand Canyon. We stand ready, in cooperation with other conservation groups, to assist the Subcommittee in drafting appropriate language on this subject.

Thank you very much.

Senator BRADLEY. Thank you very much, Mr. Echeverria.

STATEMENT OF LYNN A. GREENWALT, VICE PRESIDENT, RESOURCES CONSERVATION, NATIONAL WILDLIFE FEDERATION

Mr. GREENWALT. Mr. Chairman, my name is Lynn Greenwalt and I am actually to appear here in three different venues. One, which I will now address, is the view of the National Wildlife Federation on S. 2102. The National Wildlife Federation is pleased to support S. 2102 for all the reasons previously described and because it is important to protect valuable natural treasures of the kind described.

One particular comment I would make, Mr. Chairman, is that diversion works of any kind, not just dams, are also those features which can place fishery resources in jeopardy. We recommend that language in S. 2102 be changed to specify the prohibition of new diversion works, as well as dams.

We believe the intent of the bill would be strengthened if this language is clarified. Without the enactment of S. 2102 with the recommended change, we would be leaving salmon and steelhead trout fisheries, the important natural resources they are, in needless jeopardy.

We recognize also that the bill does not specifically preclude the future option for consideration under the designations of the Wild and Scenic Rivers Act, and we certainly encourage the consideration of these possibilities as the Subcommittee reviews this legislation.

Thank you very much, Mr. Chairman.

Senator BRADLEY. What is your position on S. 2108?

Mr. GREENWALT. Our position on S. 2108 is support of S. 2108, and I will quickly say that we have two recommendations for amendments.

One is that there be provision for a period of public comment as it relates to the formulation of the studies, and the second recommendation is that the cost of the studies authorized by the Act be shared on a 50–50 basis with interested States and local project sponsors. After all, the benefits of improved ground water understanding accrue to a wide range of people, and we think these kinds of cost-sharings are perfectly appropriate.

Otherwise, we support the legislation, Mr. Chairman.

[The prepared statements of Mr. Greenwalt follow:]

Working for the Nature of Tomorrow

NATIONAL WILDLIFE FEDERATION

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Statement of
Lynn A. Greenwalt
Vice President -- Resources Conservation
National Wildlife Federation

Before the Subcommittee on Water & Power
Committee on Energy & Natural Resources
United States Senate
regarding

S. 2102
prohibiting the licensing of certain facilities on
portions of the Salmon and Snake Rivers in Idaho

June 9, 1988

The National Wildlife Federation is pleased to support S. 2102, Senator McClure's bill to protect certain stretches of the Snake and Salmon rivers from the construction of dams. Enacting this legislation would go far in the protection of the important natural values of these rivers, especially their fisheries.

The Snake and Salmon Rivers, tributaries of the Columbia River, are important habitat for anadromous fish. Each year salmon and steelhead trout migrate hundreds of miles along these rivers to and from their spawning grounds. From the headwaters to the Pacific Ocean, these fish are a prize catch sought after by Native American, sport, and commercial fishermen. A 1988 Army Corps of Engineers "willingness to pay" study found that the commercial, recreational, and Indian fisheries of the Columbia River Basin have an economic value of approximately $390 million. These fisheries are a significant factor in the economy and the quality of life of the Pacific Northwest Region.

Unfortunately, the Columbia River Basin fisheries remain in jeopardy. Proposals to build hydroelectric dams along portions of the Snake and Salmon Rivers highlight the vulnerability of the fisheries. Each dam, each diversion, and drastic changes in water temperature all act to weaken severely the salmon and steelhead. During dry years, such as this one, fish are in direct competition with hydropower for water. The construction of another dam or diversion could place the Columbia River Basin fisheries at even greater risk.

Because the construction of diversion works along these segments of the Snake and Salmon Rivers could be just as damaging to the fisheries as would hydroelectric dams, we recommend that language in S. 2102 be changed to specify the prohibition of new diversion works as well as dams. We believe that the intent of the bill would be strengthened if the language is clarified. Without the enactment of S. 2102, with the recommended change, we will be leaving salmon and steelhead trout fisheries, an important natural and economic resource, in needless jeopardy.

Prohibiting the construction of dams and diversions on these river segments will not only help to protect the fisheries, but will help to preserve the integrity of river segments further upstream which have been included in the National Wild and Scenic Rivers System. While S. 2102 would not designate the river segments outlined in Section 1 as Wild and Scenic, the bill does not preclude these scenic, free-flowing sections of the Snake and Salmon from future recognition under the Wild and Scenic Rivers Act. Leaving this option open increases the management choices for these important rivers.

Working for the Nature of Tomorrow.
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Statement of Lynn A. Greenwalt
Vice President -- Resources Conservation
National Wildlife Federation

Before the Subcommittee on Water & Power
Committee on Energy & Natural Resources
United States Senate
regarding

S. 2108
Reclamation Groundwater Management and
Technical Assistance Study Act

June 9, 1988

The National Wildlife Federation is pleased to support S. 2108, which would authorize a two-year study by the Department of the Interior through the Bureau of Reclamation of the impacts of the Bureau's projects and operations on groundwater resources. We commend the sponsors of the bill for their interest in understanding and resolving groundwater problems associated with Bureau of Reclamation projects in the West.

In November of last year the Bureau recognized the need to change its mission from that of developing large new projects to one of better managing the existing Federal investment. The groundwater study to be authorized under this legislation is consistent with the Bureau's new mission. An understanding of the effect of the Bureau's surface water projects on groundwater resources is a first step towards improving the Bureau's operations. If Congress supports such a new mission for the Bureau, this legislation should be enacted.

We have two specific recommendations for amendments to the bill. The first recommendation is that a public comment period be established and specified in the language of the bill. We believe that public input is necessary if the study is to be most effective.

Our second recommendation is that the cost of the study authorized by the Act be shared on a 50-50 basis with interested states and local project sponsors. Improvements in Reclamation project operations to reduce adverse impacts upon groundwater are surely of benefit to local as well as Federal interests. Also, a portion of the Federal share relating to the acquisition and analysis of data on the impacts of existing Reclamation projects and modification of project operations could appropriately be drawn from existing O & M authority. Considering both of these factors, a spending authorization in this bill of about $1 million should be adequate.

Finally, we commend to the subcommittee's attention the proposals contained in H.R. 2320, introduced by Representative Miller. Under the Miller bill, the Secretary of the Interior would evaluate state groundwater programs based upon a set of criteria which recognize the importance of groundwater for humans and fish and wildlife, and which recognize the interrelationship between state water resources management and the Federal Reclamation Program. New Reclamation program spending would eventually be curtailed in those states which had not taken the appropriate minimum steps to manage their own groundwater resources. S. 2108 could be strengthened and broadened to take into account the responsibility of the states to formulate and implement effective groundwater programs. The integrated management of surface and groundwater, along with coordination between Federal and non-Federal activities, could reduce unnecessary Federal expenditures for water resource development projects.

In any event, S. 2108 would help the Federal government get its own house in order with regard to the effects of Federal projects on groundwater resources. As such, the bill is a useful step toward improved water management strategies that will become increasingly essential in the near future. We support enactment of the bill.

Senator BRADLEY. Thank you very much.

Senator McClure.

Senator MCCLURE. I have only one question of the two witnesses. Both of you have referred to the possibility of diversion in the lower Snake or in the middle Snake or the lower Salmon River in the designated portions in S. 2102. In the lower end of the Snake River in the Lewiston, ID, and Asiton, WA, area, there are a number of very, very, small irrigation pumping installations.

A person who has a home may drop a pipe in the river to pump water out to irrigate their lawn. There may be some slightly larger diversions, if I can use that term, at least taking water out of the flowing river.

I do not imagine that you have any objection to the continuation of that kind of practice?

Mr. GREENWALT. No, I think clearly, Senator McClure, we are concerned about diversions that are of a more substantive and substantial nature, that remove large volumes of water, that would impair the fishery resources.

Mr. ECHEVERRIA. In terms of a hydroelectric development, that need not necessarily entail a dam. Hydroelectric development may rely simply on a diversion, and so to the extent that your primary concern is a hydroelectric development, just in that area, it is important to specify that the bill would extend to diversion.

Senator MCCLURE. I do not disagree with that at all. I am just wondering how we write that to make certain that we meet the major objective that both you and I share, without unduly interfering with the minor infractions of the river that are occurring now and which none of us wish to stop.

And I would be glad to look at that language, and if you have any suggestions I would be glad to receive them.

Mr. GREENWALT. Thank you, sir.

Senator BRADLEY. Thank you both very much for your testimony.

The next panel consists of: Don Christiansen, general manager, and D. Robert Hilbert, president of the Board of Directors, of Central Utah Power Water Conservancy District; and Milt Theobold and H. Ross Nelson, president, of the Strawberry Water Users Association.

Good morning. Welcome, and identify yourselves and try to limit your testimony to five minutes because we are trying to get through a lot. And I will have a number of questions for you. So please feel free to go ahead.

STATEMENT OF ROBERT HILBERT, CHAIRMAN, BOARD OF DIRECTORS, CENTRAL UTAH WATER CONSERVANCY DISTRICT, ACCOMPANIED BY DON CHRISTIANSEN, GENERAL MANAGER

Mr. HILBERT. I am Robert B. Hilbert, chairman of the board of the Central Utah Water Conservancy District. With me this morning, Mr. Chairman, is Don Christiansen, the General Manager of the water conservancy district. We appreciate the opportunity to testify before you and your Committee this morning in support of the increased funding for the Colorado River storage project and the completion of the Central Utah project.

We have prepared testimony, Mr. Chairman, which we have submitted and would like to be made a part of the record, and I will quickly try to highlight, going into the final portion of our testimony on the working relationship the district has had in working with our Congressional delegation on the substitute legislation that has been introduced in the House and here today with Senator Garn and Senator Hatch's bill.

During the past several months, the district has worked closely with all members of Utah's Congressional delegation, their staff, and members of the environmental community to fashion legislation which will provide for the completion of the Bonneville unit and to ensure adequate mitigation of the environmental effects of the project.

We believe that all of the parties to these discussions have displayed good faith and a remarkable willingness to compromise. These efforts have produced the substitute legislation which the Utah Congressional delegation has offered.

If I might, Mr. Chairman, I would like to address several of the major components of this legislation and to provide you with the district's views on them. The district generally endorses this legislation because of the fact it will allow for the completion of the entire Bonneville unit, including the irrigation features of the project.

From the outset, it has been the district's position that it could not endorse any legislation which did not allow for the completion of the irrigation portion of the Bonneville unit and which did not keep faith with the commitments made to the citizens of all of the counties within the Central Utah water conservancy district.

The substitute legislation which the Committee is now considering provides for the completion of the irrigation system and therefore, with a few reservations I will outline, the district supports its enactment.

The new legislation reduces the original ceiling request of $754 million. A number of dams and pumping plants have been deleted from the project, resulting in over $100 million in reduction in CRSP required funding.

As currently contemplated, the legislation contains a number of provisions which are innovative and which the district wholeheartedly supports. Among the provisions is a requirement for the district to develop with public involvement a comprehensive water conservation plan for all of the systems of the Central Utah project.

This water conservation plan will include a public education program designed to promote water conservation, a program for leak detection and the repair of water delivery systems, a program for drought contingencies, and a program for ground water management and recharge.

The proposed legislation requires that 44,400 acre-feet of stream flows from the Strawberry collector system and associated storage facilities be applied annually for fishery purposes.

This codifies an existing in-stream flow agreement between the Forest Service and the U.S. Fish and Wildlife, Bureau of Reclamation, the Utah Department of Wildlife Resources, and the conservancy district.

Another major concern of the district in approaching the re-authorization of the CRSP was keeping faith with the water users and taxpayers within the Uinta Basin. That area comprises two counties within the eastern part of the State of Utah.

While the Upalco unit of the Central Utah project has been determined to be financially infeasible by the Bureau of Reclamation, the district believes that something must be done to provide an adequate water supply for those areas which would have been served by the original Upalco unit.

To this end, the proposed legislation authorizes $5 million for the rehabilitation of the Farnsworth facility or the Farnsworth feature of the Upalco unit, and further authorizes $2 million for a study of alternative designs of the Upalco unit features or alternative water storage features in Duchesne and Uinta Counties, including the Uinta Ute Indian reservation.

This will allow for an examination of the most effective means of meeting the commitments to this area, while at the same time recognizing the problems associated with the Upalco unit as currently designed.

The district is fully supportive of the establishment of a commission to establish section 8 mitigation expenditures of the project. We also concur with the requirement that mitigation should occur concurrent with project construction to the maximum extent possible.

In addition, the district endorses the proposed schedule of mitigation activities which are incorporated into the proposed legislation. Unfortunately, we are all too familiar with the government's ability to transfer funds appropriated for project construction to other purposes and can sympathize with the desire of the environmental and sportsmen's community to protect the mitigation features of this project from such transfers.

As long as mitigation is not done at the expense of project construction and does not delay the overall completion of the Bonneville unit, we think this approach represents a truly innovative method of mitigating water project construction.

In conclusion, Mr. Chairman, the Central Utah Water Conservancy District strongly supports adoption of the proposed legislation, believing it will allow for the completion of the Central Utah project, the fulfillment of the commitments made to the citizens of Utah within the district, and will allow for the fulfillment of commitments made by the federal government to protect and enhance the environment in our State.

We urge the Committee to work expeditiously to consider this legislation and we look forward to working closely with you and your staff in the weeks ahead.

[The prepared statement of Mr. Hilbert follows:]

TESTIMONY OF ROBERT HILBERT, CHAIRMAN OF THE BOARD OF DIRECTORS
CENTRAL UTAH WATER CONSERVANCY DISTRICT

BEFORE THE SENATE ENERGY & NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON WATER AND POWER RESOURCES

June 9, 1988

Mr. Chairman, and Members of the Committee, I appreciate having the opportunity to testify before this Committee in support of an increased authorization ceiling for the Colorado River Storage Project which will enable the completion of the Central Utah Project.

The Central Utah Water Conservancy District is the State agency charged with the responsibility of acting as the project sponsor for the Central Utah Project. With me today is Mr. Don Christiansen, the General Manager of the District.

BACKGROUND

The Colorado River Storage Project encompasses individual water projects in the States of Arizona, Colorado, New Mexico, Utah and Wyoming. The project was authorized by Public Law 84-485 in 1956, and reauthorized for increased appropriations ceiling by Public Law 92-370 in 1972. As currently authorized, the project provides for the construction

of four major storage and/or power producing units, and 10 participating projects which will provide water for municipal and industrial uses, irrigation water supplies and smaller amounts of power production. The total amount currently authorized to be appropriated for CRSP, at current price levels, is $2,171,308,000. The current estimated total appropriations required to complete the project are now $2,925,744,000. Therefore, when legislation was introduced last September to provide additional appropriations ceiling, the bill included an increased ceiling of $754,436,000. For the reasons I will outline, we now believe that the amount can be substantially reduced.

While the largest portion of the increased appropriations ceiling will be needed to complete the Bonneville Unit of the Central Utah Project, all of the units in participating projects of CRSP will be benefitted by this increased authorization ceiling. The need for these projects -- particularly the Central Utah Project -- is apparent and has been consistently reaffirmed by the Congress and various Administrations. On two prior occasions, in 1956 and again in 1972 the Administration and the Congress gave the go ahead to the Colorado River Storage Project and its component parts. Year in and year out the Administration has sought and the Congress has appropriated money for the project.

Since the project was originally authorized in 1956,

it has had a history of construction delays and inadequate funding. However, for the past several years the project has taken dramatic leaps forward. As appropriations have increased, the Congress and this Committee have acted to halt fund transfers and procedures have been put in place to reign-in excessive overhead in the project's construction.

THE BONNEVILLE UNIT

The Central Utah Project will provide critically needed water supplies to the central area of the State of Utah. The CUP will include a transbasin diversion of water from the Uinta Basin (a portion of the Colorado River Basin) to the Bonneville Basin in central Utah. Developments of related local water resources will be made in both Basins. The project will provide water for municipal and industrial use, irrigation, hydroelectric power production, recreation and fish and wildlife. It will also provide benefits for flood control, water quality control and area redevelopment.

The Bonneville Unit is the largest and most complex of the authorized units of the CUP. Greater utilization of Bonneville Basin water made possible by the unit and a transbasin diversion of water will serve the needs of a growing population in the Bonneville Basin including Salt Lake City. This complex unit includes 10 new reservoirs and the enlargement of one existing reservoir; more than 200 miles of aqueducts, tunnels, canals; six power plants; ten pumping plants; and 300 miles of drains.

The demand for agricultural, municipal and industrial water is expected to increase steadily in the 12 county area to be served by the Bonneville Unit. Although the rate of population growth and economic development has varied over time and by region, the Bonneville Unit service area, taken as a whole, has experienced continuous growth over the years and today ranks as one of the fastest growing areas in the United States. The delivery of additional water will be necessary to accommodate projected overall infrastructure development.

Salt Lake and Utah Counties, the most populous counties in the project area, are expected to increase their population by 390,000 people by the end of the century, raising their total population to about 1.2 million. Slightly higher growth rates are projected in the most of the remaining counties to be served by the Bonneville Unit. The Bonneville Unit will provide 95,900 acre feet of water annually for municipal and industrial use, a supplemental water supply to 213,530 acres of partially irrigated lands, and 20,560 acres of new land.

PROJECT REPAYMENT

The current estimated total cost of the Bonneville Unit is approximately $2.1 billion. In 1965, the Federal government and the Central Utah Water Conservancy District signed a repayment contract for the Bonneville Unit which obligated the District to repay all of the costs allocated to

municipal amd industrial water supply. At that time, the contract obligated the District to repay $156.8 million. However, because of delays in construction, design refinement, and inflation, the 1965 repayment obligation was not adequate to recover the anticipated M&I water costs. Therefore, it was necessary for the District and the government to negotiate a supplemental repayment contract to cover the total reimbursable costs of the project. In 1985, the Department and the District reached an agreement on a supplemental repayment contract which provides $335 million in additional project repayment to cover the remainder of M&I water costs (excluding 66% of the costs of the Jordan Aqueduct), and contracts with Salt Lake County Water Conservancy District and the Metropolitan Water District of Salt Lake City for 66% of the Jordan Aqueduct costs. This contract was approved by the voters of the State of Utah by an overwhelming margin. Thus, the total M&I repayment obligation of the District is now approximately $625 million.

Pursuant to Federal reclamation law, the irrigation component of the project will be repaid according to the irrigators' ability to pay.

he development of the regulatory storage components of the

SUBSTITUTE LEGISLATION

During the past several months, the District has worked closely with all of the members of the Utah Congressional delegation, their staffs, and members of the

environmental community to fashion legislation which will provide for the completion of the Bonneville Unit and to ensure adequate mitigation of the environmental effects of the project. We believe that all of the parties to these discussions have displayed good faith and a remarkable willingness to compromise. These efforts have produced the substitute legislation which the Utah Congressional delegation has offered. If I might, Mr. Chairman, I would like to address several of the major components of this legislation and to provide you with the District's views on them.

The District generally endorses this legislation because of the fact that it will allow for the completion of the entire Bonneville Unit -- including the irrigation features of the project. From the outset, it has been the District's position that it could not endorse any legislation which did not allow for the completion of the irrigation portion of the Bonneville Unit and which did not keep faith with the commitments made to the citizens of all of the counties within the Central Utah Water Conservancy District. The substitute legislation which this Committee is now considering provides for the completion of the irrigation system and therefore, with the few reservations I will outline, the District supports its enactment.

The new legislation reduces the original ceiling request of $754 million. A number of dams and pumping plants

have been deleted from the project resulting in over $100 million reduction in CRSP required funding.

As currently contemplated, the legislation contains a number of provisions which are innovative and which the District wholeheartedly supports. Among those provisions is the requirement the District develop, with public involvement, a comprehensive water conservation plan for all of the systems of the Central Utah Project. This water conservation plan will include a public education program designed to promote water conservation; a program for leak detection and repair of water delivery systems; a program for drought contingencies; and a program for ground water management and recharge. The District will also conduct a study to identify the water conservation opportunities which are associated with the coordinated and cooperative management of water resources which are being developed by the Central Utah Project. The District believes that this is a wise and reasoned approach to the critical issue of water conservation.

The proposed legislation requires that 44,400 acre feet of stream flows from the Strawberry collector system and associated storage features be applied annually for fishery purposes. This codifies an existing Instream Flow Agreement between the Forest Service, the U.S. Fish and Wildlife Service, the Bureau of Reclamation, the Utah Department of Wildlife and Recreation and the District. All water in excess of the

144,400 acre feet of water which is stored in or passes through the Strawberry collector system will be available for project purposes except that 50% of the first 10,000 acre feet of excess water shall be reserved and applied for instream fishery purposes. The District believes that this a fundamentally fair and environmentally sound approach to resolving the often thorny issue of instream flows. In addition, the legislation would also codify the instream flows requirements identified by the Environmental Impact Statements associated with the Central Utah Project.

Another major concern of the District in approaching the reauthorization of the CRSP was in keeping faith with the water users and tax payers within the Unita Basin. While the Upalco Unit of the Central Utah Project has been determined to be financially infeasible by the Bureau of Reclamation, the District believes that something must be done to provide an adequate supply of water for those areas which would have been served by the Upalco Unit. To this end, the proposed legislation authorizes $5 million for the rehabilitation of the Farnsworth feature of the Upalco Unit and further authorizes $2 million for a study of alternate designs of the Upalco Unit features or alternate water storage features in Duchesne and Uintah Counties including the Uinta Ute Indian reservation. This will allow for an examination of the most efficient means of meeting the commitments to this area while at the same time

recognizing the problems associated with the Upalco Unit as currently designed.

The District is fully supportive of the establishment of a commission to administer the Section 8 mitigation expenditures of the project. We also concur with the requirement that mitigation should occur concurrent with project construction to the maximum extent possible. In addition, the District endorses the proposed schedule of mitigation activities which are incorporated into the proposed legislation. Unfortunately we are all too familiar with the government's ability to transfer funds appropriated for project construction to other purposes and can sympathize with the desire of the environmental and sportsmans community to protect the mitigation features of this project from such transfers. As long as mitigation is not done at the expense of project construction and does not delay the overall completion of the Bonneville Unit, we think this approach represents a truly innovative method of mitigating for water project construction.

In conclusion, Mr. Chairman, the Central Utah Water Conservancy District strongly supports adoption of this proposed legislation believing that it will allow for the completion of the Central Utah Project, the fulfillment of the commitments made to the citizens of Utah within the District, and will allow for the fulfillment of commitments made by the Federal government to protect and enhance the environment of our State. We urge the Committee to expeditiously consider this legislation and we look forward to working closely with you and your staff in the weeks ahead.

Senator BRADLEY. Thank you very much.
Mr. Theobold.

STATEMENT OF MILTON V. THEOBALD, SECRETARY-TREASURER AND MANAGER, STRAWBERRY WATER USERS ASSOCIATION, ACCOMPANIED BY LAMAR CRANDALL, VICE PRESIDENT AND DIRECTOR

Mr. THEOBALD. My name is Milton Theobald. I am the Secretary-Treasurer and Manager of the Strawberry Water Users Association, which includes the Strawberry Valley project. In the absence of our president, J. Ross Nielsen, I have with me our vice president and the director, Mr. LaMar Crandall, who is here at my side to assist in some of the questions that may be addressed to us.

Mr. Bradley, we are indeed grateful to be recognized here in this Committee here to have an opportunity to put our testimony into the function of the Central Utah project and its relationship to the Strawberry Valley project.

We have a prepared statement which we will introduce to you and I will try to summarize it here to expedite the time. And we will be available for questions if they are necessary.

We would like to introduce to you primarily that the principal portion of the Strawberry Valley project, which was authorized in 1905 as one of the first reclamation projects in the West, and the project was commenced with withdrawal of 56,000 acres, approximately 56,000 acres of land from the Uinta Indians.

And in 1910, title to those lands were acquired by the Congress of the U.S. The purchase price of those lands was included in the purchase price or the payment contract with the United States for the Strawberry Valley project.

That is one of the concerns——

Senator BRADLEY. Do you know what that price was?

Mr. THEOBALD. Approximately just less than $4 million, Senator Bradley.

Back in 1905 and 1926 when that project was organized, that was a lot of dollars compared to what we have to spend now.

And I would like to emphasize at this point in time, as has been discussed many times, that the Strawberry Valley project, the Strawberry Water Users, were in default. There never was a position in time when Strawberry was in default. In the thirties during the Great Depression, Congress issued some certain provisions which they provided to all the reclamation projects and part of the payoff programs.

In 1926, the Strawberry Water Users was organized to act as a physical agent for the U.S. Government reclamation project, to act as its agent to supervise and to work out the program of the reclamation project in the Strawberry Valley.

In 1928, a phase of the contract was amended which eliminated the provisions in there that after 51 percent of the contract had been repaid to the U.S. Government title would vest into the water users. At that time, it was changed that, notwithstanding the provisions, that title would remain in the U.S. Government until otherwise provided by Congress.

In 1940, after the Great Depression the Strawberry Water Users organization entered into another agreement with the United States to extend its payment provisions of the contract.

In 1974, the Strawberry Water Users Association paid off this obligation to the United States in full, one of the few reclamation projects that has paid off their obligation.

In the 1960's, there became a controversy between the Wildlife and the Strawberry Water Users on how to administer some of the lands that were under the jurisdiction and control and operation and management of the Strawberry Water Users.

That instigated a lawsuit and the determination by the Court of Claims was that title should remain in the name of the U.S. Government and that the revenues that was generated from the project would be used for the betterment of the project.

So at that time we continued under the auspices of the Bureau of Reclamation in trying to administer the project, and we have always thought that at some time in the future that this project could be turned over to the title—or that the title of it would be vested in the Water Users Association.

But in 1982, I believe it was, part of the lands were withdrawn from the Strawberry Valley project and an interim agreement was introduced and entered into with the Forest Service to operate a phase of that land that would comprise approximately 25,000 acres.

There was a compensation given to the water users at that particular time for the loss of grazing and recreation, but no other rights were given up at that time and no settlement had been made.

Over the past year and a half, there has been considerable negotiations between the wildlife interests and the Bureau of Reclamation and the Uinta national forest personnel and Strawberry Water Users, and we have entered into a proposed agreement, subject to congressional action, which would transfer the title—or transfer the boundaries of the Strawberry lands to the boundaries of the Uinta national forest.

But with that understanding and that agreement, they have basically agreed that there would be certain compensation provided to the water users for relinquishing that contract surface rights. And we are waiting anxiously this bill that has been introduced by Senator Garn and we completely endorse this bill in its intent.

With one provision in there, we are quite concerned, with the fisheries and what we call the sixth water area of the project, which is basically from the west portal where the water comes out of the Strawberry Reservoir and dumps into the Diamond Fork and Spanish Fork system for delivery down to the valley for irrigation purposes.

There has been proposed a Diamond Fork power system or power plant being built there. It is our understanding that this may or may not be built. Strawberry has a power privilege right which was bestowed upon us by contractual rights and by Congress in 1906, which entitles Strawberry to 38 percent of the power that is generated from that or participated in that position.

This is based upon the full water rights that was originally developed out of the Central Utah project with the Bonneville unit of approximately 197,000 acre-feet. Strawberry already has the first

71,000 or 75, approximately 75,000 that is generated from there, the original reservoir. That is how we based upon our 38 percent.

So with the provisions of the reductions of water that would be brought through the system, we would still be entitled to the 74,000 percentagewise that would equate to the total amount that would be delivered through that.

We are concerned because Strawberry does have that power rights and it has been recognized by the Bureau of Reclamation and by Western Area Power Administration to that extent. And Central Utah has endorsed with some reservations as to the quantity of how that was arrived at.

I think that is our statement, Mr. Bradley, and if we have the opportunity to answer questions we would be glad to do so.

[The prepared statement of Mr. Theobald follows:]

Strawberry Water Users Association

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Secretary - Treasurer
Manager

June 8, 1988

Energy and Natural Resources Committee
Subcommittee On Water and Power
United States Senate
Washington, D.C. 20515

COMMENTS OF STRAWBERRY WATER USERS' ASSOCIATION ON REAUTHORIZATION OF COLORADO STORAGE PROJECT

Chairman Bradley and Members of the Subcommittee:

The Strawberry Water Users' Association fully supports the increased amounts authorized to be appropriated for the Colorado River Storage Project. In addition, the Association respectfully submits the following comments on the proposed Reauthorization Bill.

The first comment relates to Section 9 covering the Strawberry Valley Project Lands and particularly subsection 9(d), which provides for compensation to Strawberry Water Users' Association for relinquishment of its contractual surface rights in some 56,870 acres of Strawberry Valley Project lands. The second comment relates to Section 6(d), which covers the Fishery at Sixth Water Creek as it might impact the power rights of this Association to the Strawberry Valley Project waters conveyed through Sixth Water Creek.

Before addressing those specific comments, it should be noted that the Strawberry Water Users' Association is a Utah non-profit corporation and currently has approximately 1500 water user shareholders, including the cities of Payson, Salem, Spanish Fork and Springville, comprising approximately 42,000 people. The Project was authorized by the Secretary of the Interior on December 15, 1905, preliminary work was begun in 1906, construction was substantially completed in 1915 and the first water was delivered in 1916. The Project was operated and maintained by the United States until October 1, 1926 when the care, operation and maintenance thereof, except the Mapleton and Springville Lateral and the High Line Canal, were transferred to the Association. On November 30, 1974, the Association paid to the United States the final installment due on the Project construction costs pursuant to its repayment contracts which included the cost of the 56,869.51 acres of land acquired from the Uintah Indians pursuant to the Act of April 4, 1910.

Originally the 56,869.51 acres of land were a part of the permanent reservation for the Uintah Indians set apart by presidential proclamation on October 3, 1861 and by the Act of

May 5, 1864. Before the reservation was opened for entry pursuant to the Act of March 3, 1905, the subject lands were withdrawn for a reservoir site by presidential proclamation on August 3, 1905. On March 13, 1907 and on November 12, 1909 the Secretary of the Interior included the 56,869.51 acres of land in two first-form withdrawals pursuant to Section 3 of the Reclamation Act of 1902 for the benefit of the Project.

The 1910 Act extinguished the Indian title in the lands by payment for those lands from the reclamation fund and added to the construction costs of the Project to be reimbursed by the owners of the irrigated lands. In addition, the 1910 Act credited concurrently all receipts from the lands as rentals or otherwise to the owners of the irrigated lands and provided that the title, management and control of those lands shall pass to the owners of the irrigated lands whenever the management and operation of the irrigation works shall so pass to them under the terms of the reclamation act.

The Strawberry Water Users Association was organized in 1922 as a Utah non-profit corporation, for the purpose, among other things, of contracting with Reclamation for the repayment of the remaining unpaid construction costs of the Project and

to operate and maintain the Project. Prior to the Association's formation, the individual owners of the irrigated Project lands contracted directly with Reclamation and mortgaged their lands to Reclamation as security for repayment of the Project costs, including the purchase price of the Project Lands. After the Association's formation, the vast majority of those owners deeded their interests in the Project to the Association in exchange for proportionate shares of stock in the Association.

On September 28, 1926, the Association entered into a contract with the United States providing for, among other things, repayment of the construction costs of the Project (the "1926 Contract"). Explanatory Article 5, recites that under the 1910 Act, 56,869.51 acres of land were acquired as a part of the Project and were referred to as watershed lands. Article 11 transfers to the Association the care, operation and maintenance of the entire Project, except the Mapleton and Springville Lateral and the High Line Canal, and further provides that no title to any of the property passes. Article 22 provides that receipts from the watershed lands shall be credited to the Association under subsection 4I of the Fact Finders' Act of December 5, 1924 and further provides that

title, management and control of the purchased lands under the 1910 Act are not to pass to the Association until at least 51% of the project construction costs are repaid.

On November 20, 1928, the Association entered into a supplemental contract with the United States (the "1928 Contract") which recites that even though the 51% requirement under Article 22 of the 1926 Contract had not been fulfilled and since the 2/3rds water right subscription contract requirement under subsection 4G of the Fact Finders Act of December 5, 1924 had been fulfilled, it was to the best interests of the owners of the irrigated project lands for whose benefit the lands were purchased, to transfer to the Association the management and control (but not the title) to the subject lands. Article 10 modified the 1926 Contract to the extent that the care, operation and maintenance (management and control but not the title) of the 56,869.51 acres of land were transferred to the Association to be utilized by it for the benefit of the owners of the lands irrigated from the Project.

On October 9, 1940, the Association entered into an amendatory contract with the United States (the "1940 Contract") which supersedes and takes the place of the 1926 Contract and

1928 Contract. Article 20 of the 1940 Contract provides that notwithstanding the 1910 Act, title to the lands (redesignated as grazing lands), shall be retained by the United States until otherwise provided by Congress and that the management and control of said lands shall remain with the Association. Article 33 specifically provides that no assignment or transfer of the contract or any part thereof or interest therein shall be valid until approved by the Secretary. Article 35 designates the Secretary as the arbiter of all questions of fact arising out of the contract and the one required to make such determinations of fact which will be conclusive and binding on the parties.

On February 2, 1982, Reclamation and the U.S. Forest Service entered into an Interim Management Agreement covering approximately 25,990 acres of the 56,869.51 acres of SVP lands for management by the Forest Service until the lands are transferred to its jurisdiction. The foregoing precipitated a dispute between the Association and Reclamation which was resolved in 1986 by payment of recreational compensation and grazing compensation to the Association for its current and future losses of revenue from recreation and grazing on only

the approximately 25,990 acres of land. Acceptance of the compensation by the Association was conditioned upon "no other of its contract rights with or claims against the United States" would be thereby affected.

The Strawberry Project consists of a 283,000 acre-feet (AF) reservoir on Strawberry River, which has since been enlarged to over 1,000,000 AF as a feature of the Bonneville Unit of the Central Utah Project. The Project works included the Strawberry Tunnel through the mountain into Diamond Fork Creek and Spanish Fork River drainage, two hydroelectric power plants and two major canals. The Project supplies 75,000 AF of water annually for full service irrigation of approximately 20,000 acres of land and supplemental irrigation of approximately 25,000 acres of land in South Utah County. In addition, the Project supplies municipal water to its member cities and electrical energy to approximately 42,000 people. Needless to say, the economy of South Utah County is vitally dependent on the Strawberry Project for water and power.

The initial Project costs were repaid to the United States in 1974, which included the purchase price of the approximately 56,870 acres of watershed and grazing lands acquired from the

Uintah Indians in 1910. Those lands have been under the management and control of the Association since 1926. Since 1982, the U.S. Forest Service has managed approximately 25,990 acres of those lands for recreation purposes associated with the Bonneville Unit under an interim management agreement with Reclamation. In 1986, the Association was compensated only for its loss of grazing and recreation rights in those 25,990 acres of land.

From its inception, reclamation law envisioned that upon repayment, title to federal reclamation projects would be transferred to those entities which assumed the obligation to repay the construction costs thereof and to operate, maintain, repair and rehabilitate such projects. Section 6 of the Reclamation Act of 1902 provides for the transfer of the management and operation of the project works to the contracting entity and further provides that title to the project shall remain in the government until otherwise provided by Congress. It has always been the hope and expectation of the Association that someday title to the Project, including the Project lands, would be transferred to the Association. The right to petition Congress for a transfer of such title still remains. However,

with the advent of the Bonneville Unit of the Central Utah Project and particularly its enlargement of the Strawberry Reservoir, those hopes and expectations might never be realized.

The Project is some 80 years old and is in need of extensive rehabilitation due to aging in spite of continuous maintenance and repairs. The Association commenced rehabilitation of a portion of the Project works by reconstructing the Project's major diversion dam on Spanish Fork River and a portion of the service canal at a cost of approximately $7.5 million dollars. In addition, the Association reconstructed the Project's power plant on Spanish Fork River and associated power transmission lines at a cost of approximately $5.5 million dollars. Thus, the Association has already incurred an indebtedness of $13.0 million dollars for rehabilitation and has identified an additional $42.0 million dollars of rehabilitation of water conservation facilities and power facilities which must be constructed in the near future.

In the mid 1960's a controversy developed with the recreation, fish and wildlife interests over the Association's management of the Strawberry Valley Project lands. Approximately one year ago, an Ad Hoc Committee was formed in an effort to resolve

the controversy. The Association, Reclamation, Forest Service, Utah State Wildlife Resources and the Utah Wildlife Leadership Coalition were all represented on the Ad Hoc Committee. After almost a year of intensive negotiations, with a lot of give and take, and many compromises, the conclusion was reached that it would be in the best interests of all to buy-out the contractual surface rights of the Association at fair market value, except for approximately 95 acres, to which the Association would acquire title. Administrative jurisdiction over the Project lands would be transferred to the Forest Service by expanding the boundaries of the Uinta National Forest to include those lands and with the Association to retain the oil, gas, coal,and mineral rights in those lands in the form of a perpetual lease. The agreement in principal was reduced to writing and was signed by the interested parties on February 2, 1988.

Section 9 of the Reauthorization Bill incorporates the terms of that agreement. The interested parties and particularly the Association and the Wildlife Leadership Coalition have agreed on the substance of the proposed legislation. The Association believes that such legislation represents a fair compromise and is in the best interests of all concerned.

The Association fully supports Section 9 of the Reauthorization Bill. The compensation of $15 million dollars to the Association for the relinquishment of its surface contractual rights is based on an independent appraisal by Mardell Topham, MAI, ARA, Salt Lake City, Utah. The Association respectfully submits that the foregoing compensation is fair and equitable. Those funds must be used for Strawberry Valley Project purposes to cover operation and maintenance expenses and for repair and rehabilitation of the Project facilities, title to which remains in the United States.

With respect to Section 6(d) of the Reauthorization Bill, the Association has power rights in Diamond Fork for its Strawberry Valley Project water conveyed through the Diamond Fork System. The Association's power rights in the Diamond Fork Power System were confirmed in July, 1986, by the Regional Solicitor, Intermountain Region. Those confirmed power rights were quantified by agreement in March, 1987, between the Association and Reclamation at 38% of the hydropower to be produced in the Diamond Fork Power System based upon 74,300 AF of Strawberry Valley Project power water out of a total of 196,500 AF of power water to be delivered through the Diamond

Fork System. It would follow that if the total power water is reduced, the Association's entitlement would still be based on 74,300 AF.

The Central Utah Water Conservancy District has given recognition to the Association's power rights, but has reserved the right to examine in more detail the Association's 38% claim. The Association's power rights were further quantified and defined in December, 1987 under an agreement among Reclamation, Western Area Power Administration and the Association. It should be emphasized that all costs of the Strawberry Valley Project, which form the basis of the Association's power rights, have already been repaid by the Association to the United States.

The Association's Project water is discharged from its Strawberry Tunnel into Sixth Water Creek. Thus, it is essential that the fishery at Sixth Water Creek be established only after consultation with the Association. Likewise, the concurrence of the Association to any determination of stream flows in Sixth Water Creek is necessary since the Association's Project water is involved. More importantly is that the power rights of the Association shall not be impaired as a result of the establishment of the fishery as Section 6(d) provides.

The Association respectfully urges that the necessary legislation be passed to carry out the terms of the agreement discussed above relating to the Strawberry Valley Project lands. Likewise, the Association respectfully urges that its power rights in the Diamond Fork System be preserved and protected. The Association believes that the Reauthorization Bill as presently drafted will accomplish those purposes.

Respectfully submitted,

STRAWBERRY WATER USERS' ASSOCIATION

By _____
LaMar V. Crandall, Vice President

Senator BRADLEY. Thank you.

I would like to pursue a couple of things. One, Senator Garn and Senator Hatch today mentioned that the contributions that the local residents have already made to this project are substantial through taxes.

How much has been contributed?

Mr. HILBERT. Mr. Chairman, the Central Utah water conservancy district levies an ad valorem tax on all properties equally within the district within the twelve counties. Of course, the amounts of moneys collected through those tax levies vary year to year based upon the valuation of those properties.

I think currently the district collects in the neighborhood of $11 or $12 million a year from the annual tax levied on those properties. In the early years that was much less, probably in the neighborhood of $2 or $3 million.

The district was created in 1965. 1965 was the first full year. So these taxes have been collected over a 23-year period.

Senator BRADLEY. And they go where?

Mr. HILBERT. They come to the Central Utah water conservancy district for use in the administration of projects.

Since the Central Utah district is the sponsor of the project and they are responsible for repaying, the district uses those moneys to meet its administrative responsibilities and construct and operate facilities downstream from the federal facilities which are constructed by the Bureau of Reclamation.

Senator BRADLEY. I thought I heard Senator Garn say something like $500 million. Do you have any idea what he might have been referring to?

Oh, I am sorry. I did not see Senator Garn there.

Senator GARN. Well, when we held the election we had to increase the local payment, and there simply—because of the increase in the overall project cost, the original ad valorem tax was not sufficient to handle the local share. And we had to go back for an election to do that.

That was my reference to the fact that we were amazed. We were worried that, in an environment where taxes, raising taxes is not too popular, and it was a special election and it snowed the day of the election and we thought, all the opponents will come out and those who really are not that excited about it will not.

And it was rather remarkable that they voted to increase the levy over a period of 50 years, and by a 73-percent margin of those who turned out.

And so over a 50-year period they have agreed, and it is impossible, as was mentioned by Bob, to determine exactly what that will be because it will depend upon the valuation of the property.

Obviously, over that long a period of time there will be much growth and development and an increase. But the levy was increased, and it will provide several hundred million dollars over a 50-year period.

Senator BRADLEY. And last year it was $11 million?

Mr. HILBERT. Approximately $11 million.

Senator BRADLEY. And it started at 2 in 1965, which means the value of the property has increased dramatically?

Mr. HILBERT. Yes, it has, and continues to.

Senator BRADLEY. In the bill, I note that 220,000 acres of land are expected to receive supplemental irrigation water. Now, is there already a substantial base of irrigated agriculture in the service area?

Mr. HILBERT. Yes, there is, Mr. Chairman.

Senator BRADLEY. What is the average size of the farms in the area?

Mr. HILBERT. Don might have a better handle on that. Generally, farms in the service area of the district are rather small. There are no as we know as agribusiness. These are all pretty well family farms.

Mr. CHRISTIANSEN. 200 acres maybe would be a rough average.

Senator BRADLEY. 200 acres?

Mr. CHRISTIANSEN. Yes.

Senator BRADLEY. And when it says supplemental, what does that mean, supplemental irrigation water? Does that mean delivery on occasion, delivery on call? What does that mean?

Mr. CHRISTIANSEN. Generally what we are talking about—excuse me. Here is a farmer.

Mr. CRANDALL. I am LaMar Crandall and I am a farmer and a member of the association. And I have a farm in the Springville area, and we have a stream that comes out of a canyon there called Hubble Creek. It flows high in the spring time when the snow melt is high, and then later in the summer, in July, August, that stream flow drops considerably.

And that is when we are able then to draw on the Strawberry reservoir to have a complete water supply in the late summer months to finish out the crops. That is what I would call the supplemental water.

Senator BRADLEY. So it is basically seasonal, depending upon water flow, I see.

And is there a trend that you see in irrigated agriculture in the service area in terms of the number of acres? I mean, are the farms getting bigger or smaller, and why?

Mr. CHRISTIANSEN. I think the size and the number has stayed relatively firm. There has been an encroachment on some of the farm areas by the urban development, especially in southern Salt Lake County, pushing some of that agricultural development to south Utah County and on into the southern parts of the Central Utah district.

That is likely to continue as the population grows on the Wasatch front. The agriculture will be pushed south.

Senator BRADLEY. Any drainage problems that affect the size of the farms?

Mr. CHRISTIANSEN. There would be drainage problems in some areas, and I think in most cases the project will probably skirt around the drainage problem areas with their development.

Senator BRADLEY. Is the conservancy district at this time acquiring private water rights?

Mr. HILBERT. Yes, it is, Mr. Chairman.

Senator BRADLEY. What price are you paying for what quantities of water?

Mr. HILBERT. Of course, the district negotiates for those water rights depending upon their availability and value determined by

priority. In the State of Utah, we have the appropriation of water by priority or by date: first in time, first in right.

So the earlier rights, those in the middle or late 1800's, of course would be more valuable for the same quantity of water as a water right in the 1930's. So the price does vary considerably.

Our most recent purchases of water, we were able to acquire water for $164 per acre-foot in a particular established facility. That is a one-time water purchase price of $164 per acre-foot.

Senator BRADLEY. Is that the Kennecott Copper?

Mr. HILBERT. Yes, that is the Kennecott Copper water. It is low quality water. It is water suitable for most types of irrigation, but not for municipal use. For municipal use, it would have to receive full water treatment prior to delivery.

Senator BRADLEY. What would you say to someone who raised the obvious question that you are acquiring private water rights at $164 per acre-foot and, you know, here it is $6,000 per acre-foot for water out of the project?

Mr. HILBERT. I guess it is the amount of water that is available to be developed within the State of Utah. The water developed by Kennecott was secured back in the late 1800's.

They have had costs to develop that water and there are no longer uses for that water. The district can see that, because of the Federal involvement, the Federal project, it can take those waters no longer needed by Kennecott Copper and place those waters into the unique system being constructed by the Federal Government and make them available to additional users.

I think that water would not be valuable or would even be necessary unless the Central Utah project were there with its sophisticated means of laundering the water, if you will, taking the water in at a certain location and exchanging that water to other areas.

Senator BRADLEY. But you are saying that the Kennecott Copper water would, A, not be usable because you would not have the infrastructure; and B, that the reason it is so cheap is because of the infrastructure?

Mr. HILBERT. Essentially, that would be so, as well as the quality of most of the water developed by the Central Utah project is very high quality water. It is snow melt. It is captured at very high elevations and it does not contain the pollutions or the pollutants as the lower elevation water.

Because of the infrastructure, as you mentioned, Mr. Chairman, being constructed by the federal government and the project, it makes that water available and we will put it to use throughout the twelve counties of the district.

Senator BRADLEY. In the service area, what has been the situation with the water supply?

Mr. HILBERT. The municipal water supply, primarily along the Wasatch Front, which would be the city of Provo north to the city of Salt Lake, a distance of some 40 miles, you have seen a significant growth. I think Senator Garn alluded to that in his remarks.

Salt Lake County——

Senator BRADLEY. Have you had droughts?

Mr. HILBERT. Yes, we have had droughts. We are in one at the present time. We had water restrictions imposed last year. We

probably are looking at water restrictions this year. We had water restrictions in 1977.

If the Central Utah project were completed and all of those waters would have been made available, the restrictions would not apply this year or for a number of years because of the additional water held in storage and available at the time needed, late in the summer season, July, August, and September.

Senator GARN. Senator Bradley, if I could just make a comment on that. Our problem is that virtually all of the water falls in the form of snow. We had three unusually wet years that caused flooding and now we are back into 2 very unusually dry years.

Last summer, we went 2 months, over 60 days, with no measurable precipitation at all. Even in the driest of years in our State, if you go back to the early 1930's, there is always sufficient water if you have the ability to store it. But most of it wastes, because even this year there is normally plenty of runoff, but that is the key: It is runoff.

It ends up being wasted because we do not have the ability to store it. And then you go on water hours and restrictions during the summer.

And that is what this whole concept of reclamation and storage is all about, of taking an abundant supply of water, even in low years, with the population we have and expected growth, if you have the ability to store it during the summer when it simply does not fall.

Senator BRADLEY. Have you maximized the use of available ground water?

Mr. HILBERT. There are areas in Salt Lake County, Mr. Chairman, that are now administratively closed to further development of ground water because those areas were overly developed, and we are not mining water at the present time, but we are approaching it.

The State engineer of the State of Utah has administratively closed significant portions of Salt Lake County to the further development of ground water. But there are still areas within the Wasatch Front that ground water will be continually developed, and it will be managed, conjunctively managed with ground water and surface water development.

Senator BRADLEY. Do you have any objections to the stipulations in the bill that force water conservation measures as a condition of Federal investment?

Mr. HILBERT. We are anxious to develop the program, as indicated in the legislation, for water conservation. We know there are improvements that can be made on that. You can conserve only so much.

Take a year like this year. Those conservation plans are already in effect.

And we support the language within the bills to develop a water conservation plan. Most of that is already in place. The State of Utah is 100 percent metered. All water, municipal water, is delivered through a metered system and water rates are charged for that. There is no flat rate or delivery without it being metered.

And so much of that is already being accomplished. But the district is willing to work with all agencies to develop a very compre-

hensive conservation plan to see that the best plan is made available.

Senator BRADLEY. Do you have any thoughts on the mitigation costs and the environmental mitigation issue?

Mr. HILBERT. We certainly support the mitigation plan that is now coming together, developed by the Bureau of Reclamation.

In support of Congressman Owens and his folks, we believe that the total mitigation, adequate mitigation, be constructed and meet the demands of all of those folks that have come forward and developed a plan, and that mitigation should occur simultaneously with the construction or the section 5 funds.

Senator BRADLEY. Who do you think should pay for the settlement of the Ute Indian claims? You heard the previous witness.

Mr. HILBERT. We heard the previous witness and twisted and turned a little bit. I think the approach is to meet and discuss and see what final negotiations are developed.

Senator BRADLEY. Do you agree with the previous witness that the law implies that there are three possible responsible parties—the Federal Government, the conservancy district, and the State?

Mr. HILBERT. I do not think we would go that far. That is their interpretation. Ours is somewhat less than that, and we have not reviewed it in that much detail. We are just now barely getting into it.

Senator BRADLEY. OK. But you are part of the negotiating team?

Mr. HILBERT. Not exactly.

Senator BRADLEY. Well, you ought to have a meeting with the negotiating team, then, if you think you are not, before they negotiate your consumers' rate increases.

Mr. HILBERT. We are pursuing that, Mr. Chairman.

Senator BRADLEY. Well, I expect that—and do you have any further comments on Senator Garn's substitute that you have not made today?

If so, you should feel free to submit them for the record over the next 30 days, and then I hope you will stand ready to return if we have a second Committee meeting and we need to have your testimony.

Mr. HILBERT. We are ready, willing, and able to do that. We appreciate the record being left open, because we know the bills are being modified almost hourly, and we would like that opportunity to give our final review, and we will appear before you if invited.

Senator BRADLEY. It will be very important, because before we can really act we have to have a sense of what is there and what all the parties think of what is there.

Mr. HILBERT. We will be prepared to do so, Mr. Chairman.

Senator BRADLEY. Senator Murkowski, I see you have joined the Committee today at this meeting. Do you have any comments?

Senator MURKOWSKI. Well, as one of your valued members of the Water and Power Committee, I have looked at the extended testimony and the number of witnesses, and can only compliment your assistant, Russ Brown, who obviously has done his continuing exemplary work in putting this hearing together.

And with that, I would look forward to the record and the recommendations that come out of this from the witnesses. Thank you, Mr. Chairman. I have no formal statement.

Senator BRADLEY. Thank you, Senator Murkowski.

I would, for the record, like Mr. Duvall's statement on 2108.

And so I suppose if there are no further questions, we will move on to the next panel.

Mr. HILBERT. Thank you. We appreciate it.

Senator BRADLEY. The next panel consists of Debra Sliz, Director of Governmental Relations, American Public Power Association; Morgan Dubrow, chief engineer, National Rural Electric Cooperative Association; Carolyn McNeil, general manager, Intermountain Consumer Power Association; Joe Falbo, president, Colorado River Energy Distributors Association.

Welcome to the Committee. If you could limit your statements to 5 minutes. We are heading down toward the ending and we still have two panels to go. So hopefully we can have everyone's testimony.

Ms. SLIZ. With your permission, Mr. Chairman, we would like to change the order a little bit and have Carolyn McNeil go first.

STATEMENT OF CAROLYN S. McNEIL, GENERAL MANAGER, INTERMOUNTAIN CONSUMER POWER ASSOCIATION

Ms. MCNEIL. I would first like to say today a very sincere thank you for hearing our side of this issue. We appreciate the time and we also appreciate very much Senator Garn.

We realize that he took a lot of time personally and politically in order to fix some things that we thought were wrong with the Owens amendment, and we also appreciate the fact that he is very sensitive to the Strawberry issue. Strawberry Electric Utility District is a member of our organization and we are concerned with their issues in this as well.

We want to say right off the bat that we agree with everyone else today who has said that this is a very important project, and we pledge that ICPA, who represents—in fact, we represent 28 municipalities and six rural electric cooperatives in the State of Utah, and also in the surrounding areas of Wyoming, Colorado, Arizona, and Nevada, and we all purchase approximately 200 megawatts of CRSP power.

We as a group I think are very committed to see the completion successfully of the Central Utah project. However, you have to realize the dichotomy that we represent, where on the one hand we are Utahns and we recognize that this is our opportunity to get our share of power from the Colorado River, and we realize that the failure of the CUP means tremendous economic detriment to our State, and so we are in favor of this project and we will do what we can to promote it.

On the other hand, we are standing here also representing another group, which are the power users and the partners in reclamation, and we have grave concerns over the major shift in policies that some of the proposals represent.

We years ago were approached by the Federal Government back in the 1950's, and when I say "we" I mean our small communities and rural electric cooperatives, and asked if we would like to participate in the federal power project. Now, obviously at that time we did not have a lot of other choices, and so a lot of our cities

built distribution systems or acquired them, and so did the REA's, so that we could be utilities and participate in the federal power.

But at the time, hydroelectric was not the power of choice. I mean, back in the fifties, if you can harken back to Giant and Rocky Marciano, you have to remember that we also thought back then that nuclear was going to be too cheap to meter, and that also the way to go was to build large thermal generating units.

Hydroelectric, while the energy is cheap, the capital costs are very, very high. And so when you make an investment in that, which the public power users did, you are taking a considerable risk.

Well, the risk has paid off and today power that we are taking is relatively inexpensive. But I would like to challenge what Congressman Owens has had to say today. I was not going to say this, but since he has laid it out here, indicating that we have this really cheap power and so therefore we should be able to incur all kinds of costs to help the environment.

The point is it is true, CRSP is our cheap resource. But it is cheap because it is old. It is cheap because we arranged for that 25, 30 years ago. We also have other, more high priced resources.

Our cost of power is not 10 mills. Our combined cost of power is in the 30, 40, 50 mill range. We built the Bonanza power project and we are participants in the Intermountain power project, and those are like 70 mill units.

Other investor-owned utilities who live side by side with us have their low cost embedded resources, and if you were to take them away it would also be a devastating effect on them.

If you were to take away our low cost resource, you would virtually drive our utilities out of business. And we are representing rural Utah predominantly, and that is probably as depressed an economic area as there is anywhere in the country.

But we, to get back on the point, we did join with the Federal Government in a partnership, water, power, and the Federal Government, and it has worked well. In fact, it is one of those things over the years where the Government has expended moneys, but they have not been just expenses; they have been investments.

And we have paid back plus interest that investment from the Federal Government.

Now, however, the Government is saying they no longer want to be a part of this partnership, that they want to withdraw because it is no longer politically viable because the budget will not allow it, and so forth. And they are saying that they expect the power users—they are throwing the ball to us and saying: We are withdrawing from this partnership; carry on.

We are expected now to move into the area of irrigation and virtually pick up with up-front financing those costs. Now, we have taken a look at this. We asked Western Area Power Administration to do a study for us, and it looks as if, if we just look at the microcosm of Utah and we do up-front financing, which is a concept that is endorsed by the public power community to some extent—we have endorsed up-front financing of federal hydro power projects, not necessarily irrigation projects.

But we could be persuaded to take a look at this. But the important thing is is that there is in the reclamation law a provision

that is called apportionment, and that is when we divided up the water we also divided up some other repayment things.

And we say that $100 spent in Utah for a project is therefore—we also have to spend $400 in the State of Colorado, that it would be their share, and likewise Wyoming, Arizona, New Mexico, and so on and so forth.

So whereas the $280 million we may be able to stand in our CRSP rates, when you take care then of all the other States and their needs—and believe me, they would not stand idly by and allow for CRSP rates to only pay for Utah projects—we are talking about maybe $1.2 billion that this project could cost.

And more importantly, we are talking about giant changes in reclamation. And we ask you to consider the fact that reclamation did not happen overnight. It is 100 years of a body of law, a body of legislation that has been put together layer by layer.

And when we discuss the dismantling of reclamation law, you have to understand that we are tearing at the very fabric of the Western United States, and that if you pick up that string and you start to unravel it you should know what is at the other end, and you should know the cause and effect.

And we just ask you to consider that we cannot deal expediently with these matters. They are too grave and they are too great.

We would like to see the CUP built immediately, just as the district would, just as our Senators would, just as our Congressmen would.

But if that is required and maybe we need to build the CUP, let us do it with full partnership with the Federal Government again. Let us complete it the way it was started. And then let us sit down and counsel together to fashion a reasoned, rational public policy that will serve us as well as this one has for the next 80 years.

[The prepared statement of Ms. McNeil follows:]

Statement of
Carolyn S. McNeil, General Manager
INTERMOUNTAIN CONSUMER POWER ASSOCIATION
before the
SUBCOMMITTEE ON WATER AND POWER
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
on
S. 1737, A BILL INCREASING AMOUNTS AUTHORIZED FOR THE COLORADO RIVER STORAGE PROJECT

June 9, 1988

My name is Carolyn S. McNeil. As general manager of the Intermountain Consumer Power Association, I represent 28 municipal electric utilities and 6 rural electric cooperatives located in Utah, Wyoming, Colorado, Arizona and Nevada, which purchase power from the Colorado River Storage Project (CRSP).

I am grateful for the opportunity to appear before the subcommittee today to offer our perspective of Senator Jake Garn's proposal to increase the authorization ceiling for the Central Utah Project.

At the outset I would like to say how much we appreciate the efforts Senator Garn has made, both personally and politically, to address the concerns we raised with Representative Wayne Owens' amendment to HR 3408. Senator Garn has personally devoted a great deal of time to discuss this issue with us, and our deliberations with him reveal his appreciation of the complexities of reclamation law and a willingness to accommodate our concerns. The draft bill before us today is evidence of his responsiveness. He has worked hard to break an impasse on this issue, and we want both Senator Garn and the subcommittee to know that ICPA will make every effort to continue working with him to see the Central Utah Project through to successful completion.

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We are acutely aware of the dichotomy of our situation. On the one hand, we are concerned as Utahns about the future development of our state. Failure to complete the Central Utah Project would mean that Utahns forfeit both water that rightfully belongs to us as well as our future economic vitality. We are determined to make sure that doesn't happen.

Yet, on the other hand, as federal power users and partners in reclamation, we have grave concerns about the major policy shifts we see developing.

At a time when conventional wisdom was that nuclear power was going to be too cheap to meter and economies of scale compelled construction of large thermal units, we took a risk to become partners with the federal government and the water users in projects that opened the West to civilization and development. Both the partnership and the public policy have worked well. In fact, reclamation projects are unique among federal programs in that they are investments rather than expenses. On the Colorado River Storage Project, power users will repay 100 percent of the cost of power generating facilities, with interest, and nearly 90 percent of the costs of irrigation features. Our aid to irrigation on the Central Utah Project is slightly greater. The point that should be underscored is that without the participation of the power users, most, if not all, of the large water development projects would never have been built.

Now the federal government wants to terminate the partnership because it say water projects are no longer politically viable, that budget pressures require it to pull back its involvement. Responsibility for remaining projects is being turned over to other project participants. For a policy change of this magnitude, many questions remain unanswered:

How will this work?

What does this portend for the future development of our country? Is it the right thing to do?

The public power community has gone on record supporting the concept of non-federal financing of new federal projects provided they preserve cost-based rates, preference in power marketing and public ownership and operation. To date, a few projects have been financed in this manner. We are pleased that the Central Utah Water Conservancy District has stated its support of these principles, and we welcome the opportunity to work with the District in trying to accomplish a non-federal financing plan that satisfies these prerequisites.

However, problems arise as we contemplate the up-front, non-federal financing of aid to irrigation projects without the support of the federal government. The impact of this change in policy should be carefully evaluated.

It is important for those contemplating such changes to understand the repayment policies of the Upper Colorado River Basin Fund. Repayment is made according to a set of rules too complex to discuss in this hearing. Nonetheless, the rules have worked, and to change them without a thorough understanding of their long range impacts is to court disaster -- for the Upper Basin states, for the power users and for the water users.

At the request of the parties involved in the CUP, Western Area Power Administration has studied the effect of financing $280 million in irrigation assistance with non-federal financing by the power users. Depending on the assumptions and some creative accounting, this scheme could conceivably work if it were not for the apportioned funding formulas that must be applied to all Upper Basin states. The CRSP Act is clear that project investment in one state

requires the accumulation of funds to the other states, which are credited to the participating CRSP projects. A rough calculation of the apportionment on the Basin Fund is that power users would wind up repaying not $280 million for CUP irrigation, but a total of $1.2 billion to the Basin Fund.

We hope this single example portrays our concern for the cause and effect of changing a long standing reclamation principle that has worked well.

Reclamation law, after all, was not conceived or enacted in haste. It is the result of a number of acts of Congress enacted over many years, creating an entire body of legislation.

If today's common wisdom is correct -- that there are to be no more federally financed water and power projects, that reclamation is passe', that a new body of legislation will emerge -- then a number of questions must be answered first:

o What is the new policy towards the future of the agriculture industry in our country?

o Will we still consider population expansion into the Sunbelt?

o Is it fair to complete water development projects in Arizona and California, but not in the Upper Colorado River region?

We cannot deal expediently with matters of such great consequence.

If the CUP must be dealt with immediately, then do it with the full partnership of the federal government, the water users and the power users. Then, let us counsel together to fashion a reasoned, rational public policy that will serve us as well for the next 80 years as this one has.

# # #

Senator BRADLEY. Are you in support or opposed to the financing measures through bonding?

Ms. NCNEIL. Well, if we could make them work we would be supportive of them. But we have to realize that there is the other States that have to be considered. I mean, that is a big if.

Senator BRADLEY. All right.

Who would like to testify next?

STATEMENT OF JOE A. FALBO, PRESIDENT, COLORADO RIVER ENERGY DISTRIBUTORS ASSOCIATION, ACCOMPANIED BY DONALD R. ALLEN, COUNSEL

Mr. FALBO. I am Joe Falbo. I am president of the Colorado River Energy Distributors Association. It is a pleasure to be here with you today. I am accompanied also by our counsel, Donald Allen.

CREDA, as I will refer to it from now on, Mr. Chairman and Committee member Murkowski and Senator Garn, CREDA's members are located in the States of Arizona, Colorado, New Mexico, Nevada, Utah, and Wyoming. We purchase almost all the power generated by the Colorado River storage project.

And I want to express my thanks to the Subcommittee for allowing CREDA to appear here to present our views on the matter of an increase in the authorization ceiling for CRSP. I have supplied the Committee with copies of my statement today, Mr. Chairman, and would ask that they be submitted for the record.

As mentioned by my colleague, Ms. McNeil, I listened with interest to your statement earlier, Mr. Chairman, with regard to the things that occurred during that period of time in the era of Giant and other matters. Perhaps that was also a time when a future well-known Princeton and NBA player was honing some skills. So there is a lot of history that has gone down through that time, during that period of time.

I might also say, Mr. Chairman, that during those earlier comments that you made, and I think also alluded to by Ms. McNeil earlier, Utah would not be the last project. This is not the last hurrah. Colorado certainly would be very interested in all of the CRSP projects that they have, and we needed to get that, I think, out for the record.

On the House side, CREDA supported a full conventional increase in the spending authority for CRSP, but opposed a completely unconventional alternative approach which had been proposed in draft form by Congressman Owens.

For different reasons, CREDA today finds itself in the same position. CREDA supports what appears to be a conventional solution to the need for an increase in the CRSP authorization ceiling, as presented in S. 1737. The increase is required because of much higher construction costs than were envisioned when CRSP was initially authorized, and we believe it should be granted as a matter of course.

In contrast to this conventional approach, we understand Senator Garn has suggested an alternative which would result in what we believe is a substantial amendment to the CRSP Act.

CREDA strongly opposes these revisions for two very important reasons: They would reopen the CRSP Act of 1956, which we have

talked a great deal about earlier, and change its many fundamental underpinnings. It would also completely revamp this nation's nearly century old reclamation program, as referred to earlier.

It would occur because the CRSP revisions would cause the following:

CRSP allocations and benefits among the affected states would be done away with;

Federal power revenues would be dedicated to the retirement of privately incurred debt not related to power and repayment of other costs, in contravention of many of those federal laws and policies;

Repayment priorities would be reordered so that privately funded irrigation investments would be repaid prior to federally funded prior investment;

The time for repayment of the irrigation investment would be shortened from 50 years in the CRSP law to 25 years;

Irrigation investment would be repaid with interest;

Power revenues would be used to pay irrigation costs irrespective of the irrigators' ability to pay;

The CRSP rate would no longer be cost-based;

Responsibility for construction of CRSP would be turned over to private interests;

And the highest and best use of water, the M&I use, would remain a beneficiary of Federal funding, while irrigation costs would be increased through non-Federal funding.

These changes would be imposed on CRSP and set a precedent for the rest of the Nation's reclamation program. This would all happen with virtually no regard for the impact of these changes on the unbuilt features of CRSP, of which we have already spoken.

Outside the State of Utah, there has been no time for analysis or would be no time for analysis by affected parties and no involvement by the Bureau of Reclamation.

I have addressed each of these matters in the prepared text which we have submitted for the record.

I wish to assure this Committee that CREDA is not against change per se. Indeed, we may well need to consider these approaches to completing the long journey we all began in 1956, when the storage project was first authorized. However, it is totally unacceptable for power users to be asked, with no advance warning or involvement, to foot the bill for someone's newest best idea on how to solve a possible problem in Utah by amending wholesale as longstanding and complicated a law as CRSP, with absolutely no consideration to the impacts on the power users.

I am informed by reliable sources that there is more than adequate funding for this particular year and it could be funded well into next year. In light of this, we strongly urge the Committee to reject the amendment as it is presently proposed.

If the Committee believes that a conventional increase in the CRSP authorization ceiling is impossible to achieve, even for a project like CRSP, the Committee must take the time to do the job properly.

The affected parties should include not only power users from CRSP and other affected States, but water users in the region and elsewhere. Any process should be conducted in an open and above-

board fashion, perhaps under the auspices of the Bureau, since Congress has given it the primary responsibility for constructing CRSP.

Before closing, I would like to note one additional matter. While not specifically contained in the CRSP revisions, it has been the subject of discussion among sponsors of these revisions.

In an apparent attempt to appease certain parties, CREDA has heard that the impact of the CRSP revisions will not raise power rates beyond what they would otherwise be if CRSP were pursued in a conventional federally financed manner. This statement has been made upon a draft repayment and repayment studies given to me and other CREDA representatives in Salt Lake last week.

We believe the rate and repayment studies are based upon some invalid assumptions and under no circumstances can they be viewed as properly measuring the impact of various private financing schemes on power rates.

If the rates and repayment studies are to be considered, they must first respect the existing law and policy governing the projects to which they relate.

Mr. Chairman, thank you for this opportunity, and I thank the Committee for the opportunity to testify today. I would be pleased to answer any questions.

[The prepared statement of Mr. Falbo follows:]

CREDA

COLORADO RIVER ENERGY DISTRIBUTORS ASSOCIATION

STATEMENT

BEFORE THE
UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON WATER AND POWER

REGARDING AN INCREASE IN AUTHORIZATION FOR
COLORADO RIVER STORAGE PROJECT

Delivered By:

Joe A. Falbo, General Manager
Maricopa Water District

June 9, 1988

STATEMENT OF JOE A. FALBO
ON BEHALF OF
COLORADO RIVER ENERGY DISTRIBUTORS ASSOCIATION
REGARDING AN INCREASE IN AUTHORIZATION FOR
COLORADO RIVER STORAGE PROJECT

My name is Joe Falbo. I am President of the Colorado River Energy Distributors Association, otherwise known as CREDA. I am also General Manager of the Maricopa Water District, a member of CREDA located in Waddell, Arizona. I am accompanied here today by Donald R. Allen, counsel to CREDA.

CREDA's members are located in the States of Arizona, Colorado, New Mexico, Nevada, Utah, and Wyoming. They purchase almost all of the power generated by the Colorado River Storage Project.

I want to express my thanks to the Subcommittee for allowing CREDA to appear here to present its views on the matter of an increase in the authorization ceiling for the Colorado River Storage Project, more commonly known as CRSP. I have supplied the Committee with copies of my statement today to which I have attached the statement CREDA delivered several weeks ago on the same subject to a subcommittee of the House Interior Committee.

A. Summary of CREDA Position

On the House side CREDA supported a full, conventional increase in spending authority for CRSP but opposed a completely unconventional alternative approach which had been

proposed in draft form by Congressman Wayne Owens. For different reasons CREDA finds itself in the same position today.

CREDA supports what appears to be a conventional solution to the need for an increase in the CRSP authorization ceiling as represented in S. 1737. The increase is required because of much higher construction costs than were envisioned when CRSP was initially authorized and we believe it should be granted as a matter of course.

In contrast to this conventional approach, we understand Senator Garn has suggested an alternative which would result in a substantial amendment of the CRSP Act (hereinafter the "CRSP Revisions"). CREDA strongly opposes the CRSP Revisions for two very important reasons. They would reopen the Colorado River Storage Project Act of 1956 and change many of its fundamental underpinnings. They would also completely revamp this nation's nearly century old reclamation program. This would occur because the CRSP Revisions would cause the following:

1. The CRSP allocation of benefits among affected states would be done away with;

2. Federal power revenues would be dedicated to the retirement of privately incurred debt not related to power and repayment of other costs in contravention of many important federal laws and policies (see attached OMB letter);

3. Repayment priorities would be reordered so that privately funded irrigation investment would be repaid prior to federally funded power investment;

4. The time for repayment of the irrigation investment would be shortened from 50 years in the CRSP law to 25 years;

5. Irrigation investment would be repaid with interest;

6. Power revenues would be used to pay irrigation costs irrespective of the irrigators' ability to pay;

7. The CRSP rate would no longer be cost based;

8. Responsibility for construction of CRSP would be turned over to private interests; and

9. Highest and best use of water (M&I) would remain a beneficiary of federal funding while irrigation costs would be increased through non-federal funding.

These changes would be imposed on CRSP and set a precedent for the rest of the nation's reclamation program. This would all happen with virtually no regard for the impact of these changes on unbuilt features of CRSP outside the state of Utah, no time for analyses by affected parties and no involvement by the Bureau of Reclamation.

I will address each of these matters in detail. However, before doing that, I wish to assure this Committee that CREDA is not against change per se. Indeed, we may well

need to consider new approaches to completing the long journey we all began back in 1956 when the Storage Project was first authorized. However, it is totally unacceptable for power users to be asked with no advance warning or involvement to foot the bill for someone's newest, best idea on how to solve a possible problem in Utah by amending wholesale as longstanding and complicated a law as CRSP with absolutely no consideration of the impacts of this "idea" on power users, on other features and beneficiaries of the Storage Project or on the reclamation program in general.

I am informed by reliable sources that there is more than adequate spending authority left for the remainder of this year and well into next year for the Bureau to continue constructing CRSP on schedule. In light of this, we strongly urge this Committee to reject the Garn alternative.

If the Committee believes that a conventional increase of the CRSP authorization ceiling (i.e., S. 1737) is impossible to achieve, even for a project like CRSP which is relatively so near completion, and that new ways should be sought to fund completion of CRSP, the Committee must take the time now to do that job properly. CREDA believes that at a bare minimum all parties who might be affected by a reopening of the CRSP Act should be involved in that process.

The affected parties should include not only power users from the CRSP and other affected states but also water users in the region and elsewhere, the Bureau of Reclamation

and the Western Area Power Administration. Any such process should be conducted in an open and above board fashion, perhaps under the auspice of the Bureau of Reclamation since Congress has given it primary responsibility for constructing CRSP. Additionally, this Committee and its sister committee in the House should set aside adequate time to receive and consider the views of all affected parties. Then and only then will the Congress have the knowledge before it ultimately to decide whether new legislation will be necessary to complete the construction of economically feasible and engineeringly sound features of CRSP which still remain unbuilt.

B. Complexities of CRSP Ignored

Many of the problems CREDA has with the CRSP Revisions arise from a failure of their proponents to understand or appreciate the CRSP Act itself. When authorized in 1956, CRSP represented an important and fundamental balancing of interests among the Colorado River Basin states on how they would utilize the Colorado River to develop water resources for the Upper Basin. First, high dams would be built to store water and generate power. Second, and integrally related to the high dams, were CRSP's participating projects. These projects, intended to meet primarily irrigation, municipal and industrial water supply, recreation, and fish and wildlife needs, were part and parcel of the high dams from both an engineering feasibility and economic feasibility standpoint.

The United States, CRSP power users and CRSP water users agreed to bear what was determined to be their fair share of the costs of constructing CRSP. Municipal and industrial water users and power users would bear their fully allocated share of CRSP costs. Power users also committed to pay irrigation costs over and above the irrigators' ability to pay. Finally, the United States agreed to bear recreation, fish and wildlife costs.

The CRSP Act also memorialized how power revenues would be apportioned among the states to assist irrigation development. This balance--Colorado 46%, New Mexico 17%, Utah 21.5% and Wyoming 15.5%--represented then and still represents today the key to allocation of the benefits of developing the Colorado River Basin waters for the Upper Basin states.

The importance of this historic and fundamental balancing of interests can not be overemphasized. If threatened, the ramifications will spread far beyond the parties in this room. The fact is that CRSP has been in the development stage for over 30 years, making the fundamental relationships established in the CRSP Act even more important today than they were before. They represent the only basis upon which those states and beneficiaries who did not get their portions of CRSP built early can hope that CRSP's commitments to them will ever be honored. When the fabric holding these mutual commitments together is torn, the allocation of Colorado River waters among the Upper Basin states is torn as well. We are certain this

Committee does not intend such a result; however, for the reasons we explain below, we believe that very thing will result if the CRSP Revisions are adopted.

C. Adverse Impacts on CRSP and Reclamation Program of Alternative Approach

The alternative approach to increasing the CRSP authorization ceiling contained in the CRSP Revisions would amend the CRSP Act to permit non-federal financing and construction of certain features of the Central Utah Project, one of CRSP's participating projects. The higher costs created by this amendment would be allocated to CRSP power users for repayment. The CRSP Revisions would also impose many additional changes on the Storage Project. They would establish a precedent for alteration of the rest of the nation's reclamation program.

1. The CRSP Allocation of Benefits Among CRSP States Would Be Done Away With

The CRSP Revisions would simply do away with the delicate balance struck in 1956 for apportionment of CRSP power revenues among the states for irrigation assistance to participating projects. Quite simply, the Central Utah Project would "cut and run" from the other states with a private financing scheme secured by CRSP power revenues from all of the CRSP states. This would occur for two reasons. First, the CRSP Revisions do not recognize the apportionment formula. Second, the CRSP Revisions give private parties a secured

interest in CRSP power revenues irrespective of whether they are sufficient to meet the total inter-state apportionment requirement. Thus, bondholder's first claim on power revenues would override any apportionment balance to the extent necessary to pay off bondholders when defaults occur.

2. Federal Power Revenues Dedicated To Retire Non-Power Related Private Debt

The CRSP Revisions would permit dedication of power revenues to retire privately incurred debt for certain non-power related Central Utah Project facilities. While it is not clear, the CRSP Revisions CREDA has seen also appear to permit dedication of those revenues to repay other non-power costs, such as ". . . contributions to return on a present value basis the sunk costs allocated to irrigation features of the Bonneville Unit."

The CRSP Revisions would represent a major and fundamental departure from the existing CRSP Act as well as long established reclamation law and policy. These changes would be implemented at the expense of an approximately 50% rate increase to CRSP power users. Moreover, CRSP power users as well as power customers of other reclamation projects, would become the acknowledged target for securing private financing schemes to build virtually any non-power facility vaguely related to existing or new reclamation projects. Such a result is simply unacceptable to power users both in Utah and elsewhere.

I would point out that this is not the first time someone has proposed such a scheme. A recent example is the CENDAK project to which the Office of Management and Budget strongly objected. OMB's letter is attached.

3. Repayment Priorities Reordered

The CRSP Revisions would reorder the priority for use of power user revenues to repay funds to the U.S. government. Currently, reclamation law and policy requires that power investment be paid out first to meet the "sound business principles" provisions of the Flood Control Act of 1944. The CRSP Revisions would reverse that priority by establishing amortization schedules for repayment of privately financed irrigation costs before repayment of power investment.

4. Period For Repayment of Irrigation Costs Foreshortened

Based upon representations made by certain parties sponsoring the CRSP Revisions, CREDA understands that privately financed irrigation investment would be repaid over an approximately 25 year period instead of the 50 year period irrigators currently have to repay irrigation investment to the United States. Such a foreshortening of the irrigation repayment period this late in the CRSP project represents a significant and damaging departure from traditional reclamation law and approaches an unconstitutional taking without due process.

5. Irrigation Investment Repaid With Interest

Congress has always provided when authorizing reclamation projects that the investment in irrigation facilities would be repaid but without an interest component. It is certain that this provision would change if private parties are permitted to finance irrigation investment with power user revenues.

6. Irrigators' Ability To Pay Criteria Disregarded

The CRSP Revisions would allocate certain sunk costs allocated to irrigation for repayment directly by power users without initial assessment to irrigators and application of the "ability to pay" test. Thus, irrigators would be relieved of any ability to pay for irrigation features. The degree to which such a change departs from public policy is apparent on the face of the provision itself.

7. The CRSP Rate No Longer Cost Based

Congress and all power marketing agencies have traditionally adhered to the cost based principle for establishing rates. The repayment methodology for determing CRSP power rates by WAPA is one vehicle to achieve that objective. The CRSP Revisions would drastically alter and, in fact, prevent WAPA from achieving that objective. This is true for many reasons. For example, the lock step inter-state power revenue apportionment language, to the extent it triggered rate increases due to revenue requirements arising from private

financing, would create surplus funds attributable to projects in other states which simply do not exist. As I am sure members of this Committee know, Congress has repeatedly rejected and been critical of attempts by the Administration and others to depart from basic, cost-based ratemaking for power marketing agencies. This is evidenced in staunch criticism contained at pages 107-108 and 120 of the report of the House Committee on Appropriations Subcommittee on Energy and Water Development Appropriations for Fiscal Year 1989 (H.R. Rep. No. 100-618, 100th Cong., 2d Sess. (1988)) (attached).

8. Federal Reclamation Project Constructed By Private, Unaccountable Interests

The CRSP Revisions authorize construction of parts of the CRSP by private parties in coordination with the Secretary of the Interior. Such a delegation of responsibility for construction of federally authorized water resource projects would be unprecedented and represent much more than a privatization of reclamation activities. Under the circumstances, it would facilitate a giveaway of a portion of a reclamation project to certain private interests who, with their claim on federal power revenues to meet their debt service, would escape all Congressional control. This degree of private control would also remove the Central Utah Project from all reclamation law controls.

9. Highest and Best Use of Water (M&I) To Be Federally Funded

The highest and best use of water is to supply municipal and industrial needs. Ironically, the CRSP Revisions would distort the situation so much that M&I water would receive the benefits of federal funding while irrigation water facilities would be subjected to higher financing costs.

D. Impact on CRSP Rates

Before closing, I would like to note one additional matter which, while not specifically contained in the CRSP Revisions, has been the subject of discussion among sponsors of the CRSP Revisions. In an apparent attempt to appease certain parties, CREDA has heard it said that the impact of the CRSP Revisions will not raise power rates beyond what they would otherwise be if CRSP were pursued in a conventional, federally financed manner. This statement has been made based upon draft rate and repayment studies given to representatives of CREDA last week in Salt Lake City.

The draft rate and repayment studies are based upon invalid assumptions. Under no circumstances can they be viewed as properly measuring the impact of various private financing schemes on power rates.

If any rate and repayment studies are to be considered, they must first respect existing law and policy governing the projects to which they relate. Additionally, parties sponsoring ideas which depend on artificially

increasing CRSP costs in one state should be required first to ameliorate any general CRSP power rate spike attributable to the lock step apportionment of the power revenues among states by first seeking to employ surplus power revenues currently available from apportionments to other states. Otherwise, water users in one state will drive power users into generating enormous funds for non-existent projects in other states.

* * * *

Again, Mr. Chairman, I want to thank the Committee for permitting CREDA to testify today. We will be pleased to answer any questions you may have.

CREDA

COLORADO RIVER ENERGY DISTRIBUTORS ASSOCIATION

STATEMENT

BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE INTERIOR AND INSULAR AFFAIRS
SUBCOMMITTEE ON WATER AND POWER RESOURCES

REGARDING PROPOSALS TO
INCREASE THE AUTHORIZATION FOR THE
COLORADO RIVER STORAGE PROJECT

Delivered By:
Thaine Michie, General Manager
Platte River Power Authority

May 4, 1988

Statement of Thaine Michie
on behalf of
Colorado River Energy Distributors Association
Regarding Increase in Authorization for
Colorado River Storage Project

My name is Thaine Michie. I am Vice President of the Colorado River Energy Distributors Association (CREDA). I am also general manager for Platte River Power Authority, a member of CREDA located in Fort Collins, Colorado. I am pleased to appear today on behalf of CREDA to support an increase in the authorization ceiling for the Colorado River Storage Project. I will also comment on draft legislation which I understand is pending before this Subcommittee to reopen the Colorado River Storage Project Act and alter historic cost sharing arrangements and other provisions of that Act.

Description Of CREDA

CREDA is a non-profit Colorado membership corporation comprised of the following preference customer entities: the Arizona Municipal Power Users Association; Arizona Power Authority, Arizona Power Pooling Association; Colorado River Commission, an agency of the State of Nevada; City of Colorado Springs; City of Farmington, New Mexico; Intermountain Consumers Power Association; Irrigation and Electrical Districts Association of Arizona; Navajo Tribal Utility Authority, Arizona; Plains Electric Generation and Transmission Cooperative, Inc., New Mexico; Platte River Power Authority, Colorado; Provo City, Utah; Salt River Project Agricultural Improvement and Power District,

Arizona; Silver State Power Association, Nevada; Strawberry Water Users Association, Utah; City of Truth or Consequences, New Mexico; Tri-State Generation and Transmission Association, Colorado; Utah Municipal Power Agency; and Wyoming Municipal Power Agency. CREDA's members and associated systems include approximately one hundred twenty preference customers. A more detailed description of CREDA's members and their associated systems is attached for your reference.

Support Increase In CRSP Authorization

CREDA supports the increase in the amount authorized to be appropriated for completion of construction of the Colorado River Storage Project (CRSP) and its participating projects. Specifically, CREDA supports the increase in spending authority of $754,436,340 provided for in H.R. 3408. That amount is consistent with the overall program of the Bureau of Reclamation envisioned in the President's Budget for Fiscal Year 1989 and the Bureau's most recent Definite Plan Report for the Central Utah Project (CUP), one of the participating projects of CRSP.

As with any major reclamation project which was first authorized decades ago, the original expenditure ceiling for CRSP has proven to be inadequate because of rising construction costs. The increase in the authorization does not represent any new or expanded government program and passage of Congressman Owens' original, one paragraph bill to increase the CRSP authorization ceiling (H.R. 3408) should not be regarded as controversial.

Indeed, a failure by Congress now to increase the authorization for CRSP would amount to a reversal Congress' decision to build CRSP in the first place.

Full Development Of CRSP Power Generation

CREDA understands from reports of the field hearing this Subcommittee conducted in Salt Lake City on April 18, 1988, that a controversy has developed regarding the development of the power generation potential of CRSP, particularly that associated with the Bonneville Unit of CUP. CREDA believes that this Subcommittee should encourage full development of the power generation potential of the Bonneville Unit by the Western Area Power Administration (WAPA) and the Bureau of Reclamation as expeditiously as possible provided, of course, that the facilities ultimately constructed are economically and engineeringly feasible.

Traditionally, the Federal Government has provided upfront funding of power features of CRSP and other reclamation projects. In return, power users have obligated themselves to repay the cost of those facilities to the federal government over time with interest. CREDA believes that this policy should be continued.

CREDA is aware, however, of the Administration's decision to adjust certain federal cost sharing policies relating to reclamation projects. If federal funding is no longer to be available for power generation features of CRSP under traditional

arrangements, WAPA and the Bureau must exercise extreme caution to assure that alternate funding does not trigger a violation of the traditional reclamation law principles which govern CUP.

CREDA is aware that WAPA has already promulgated through its Sacramento office certain principles to guide upfront funding of power generating facilities by non-federal entities. See 52 Fed. Reg. 21771 (June 9, 1987). CREDA supports the continuing efforts of WAPA and the Bureau to develop only those non-federal funding arrangements which would include both open consideration of all available proposals and involvement of power users in the decisional process. This would help insure that any generating facility proposal selected is engineeringly sound, economically feasible and consistent with reclamation principles.

Opposition To Giveaway Of Power
Generation To Private Interests

CREDA is aware from draft legislation considered at the Subcommittee's April 18 field hearing that a proposal is under discussion to grant to the Central Utah Water Conservancy District the exclusive and perpetual right to own, develop and operate the Diamond Fork power generating complex of the Central Utah Project.

Such a proposal would represent an unprecedented giveaway of federal resources. Never has our Federal Government granted exclusive and perpetual rights to federal reclamation project power resources to a non-federal entity. Moreover, federal water power policy has been aimed at preventing private

profiteering from scarce natural resources, either through the FERC licensing procedure or by federal development and sale of hydro power at federal projects. The proposal to give Diamond Fork to the Central Utah Water Conservancy District is wholly unacceptable to CREDA and must be totally rejected by this Subcommittee.

Opposition To Fish And Wildlife Commission

The Subcommittee received testimony at its April 18 field hearing regarding the establishment of a special Fish and Wildlife Commission which would act as a super review agency for fish and wildlife aspects of the Central Utah Project. Creation of such a commission would represent an unprecedented departure from federal natural resource development.

CREDA agrees with the conclusion of the Utah Governor Norm Bangerter who testified before this Subcommittee on April 18 that the proposed commission would be "duplicative, disruptive, and in fact counterproductive... [and] without precedent." CREDA further agrees with the governor that if unique fish and wildlife problems must be addressed regarding CUP, an interagency agreement among affected federal and state agencies would be a far more appropriate mechanism to resolve such problems.

It is possible that proponents of the fish and wildlife commission are unaware of extensive reviews which are currently being made of environmental aspects of CRSP and CUP. Multi-million dollar studies and programs, called the "Glen Canyon Environmental Studies" and the "Recovery Implementation Program

For Endangered Fish Species In The Upper Colorado River Basin," are underway at the present time. These represent a substantial effort by state, federal and private interests which are concerned about environmental aspects of CRSP.

Finally, until recently some persons might have argued that given the amount of time which has passed since Congress' enactment of CRSP, some confusion may have developed about relative priorities among competing uses of the Colorado River. Any such doubt has been thoroughly dispelled, however, in a broad ranging, preference law and environmental lawsuit brought by the Utah Power & Light Company in late 1986. In a decision rendered by Judge Green on April 14, 1988, Utah Power & Light Company clearly established that, in Judge Green's words, "Congress considered power revenue the most important financial aspects of [CRSP]." Salt Lake City v. Western Area Power Administration, No. C86-1000G, slip op. at 5 (D. Utah April 14, 1988). UP&L also established in its suit that, according to Judge Green, the CRSP Act "...mandates [WAPA] doing what is reasonably necessary...to maximize the sale of federal power at firm rates." Salt Lake City, slip op. at 51. This decision should lay to rest any remaining question a fish and wildlife commission might consider.

Opposition To National Academy Of Science Study

CREDA understands the Subcommittee also heard testimony in Salt Lake City regarding a proposal that the National Academy of Science study the Colorado River. Proponents of such an idea

must be unaware of the ongoing Glen Canyon Environmental Studies and the fish recovery programs below Flaming Gorge Dam previously mentioned which obviate the need for any more such studies.

Further, CREDA agrees with Utah Governor Norman Bangerter who testified before this Subcommittee on April 18 regarding the proposed National Academy of Science study as follows:

- "The proposal...is totally without merit and almost inconceivable in this area of attempted fiscal responsibility."
- "We have had over thirty years of experience with this act [CRSP], and during that time, have amended, modified, and otherwise molded the legislation and associated regulations into a form which is workable and produces overwhelmingly positive results."
- "To assume that a group of 'disinterested' scientists, no matter how distinguished, could produce proposals for significant change that: (1) have eluded competent professionals who have worked with the problem for lifetimes, and (2)

could gain the widespread political support necessary for implementation, is beyond the bounds of reason."

Testimony of Governor Norman H. Bangerter Before The Water And Power Resources Subcommittee On Amendments To The Colorado River Storage Project Act, at 7 (Apr. 18, 1988).

Finally, CREDA again notes that UP&L's recent broad ranging preference law and environmental lawsuit should have resolved any remaining issues which a National Academy of Science study would address regarding competing uses of the Colorado River. CREDA's comments above regarding the relevancy of a fish and wildlife commission after this important federal court decision are equally applicable to the proposed National Academy of Science study.

Opposition To $15 Million Annual Tax On Power Users

CREDA understands from the Subcommittee field hearings in Salt Lake City that the Fish and Wildlife Commission, and the National Academy of Science study and other environmental undertakings, would be funded by a special tax on power users. In view of the fact that currently CRSP power users pay some $60 million per year to WAPA for their firm CRSP power, this $15 million tax would represent a 25% rate increase immediately to CREDA members.

CREDA believes, as does Governor Bangerter, that the power revenues should go towards repayment of CRSP project costs. When it enacted CRSP, Congress provided that power users would

repay not only the costs associated with power but also the costs allocable to irrigation in excess of the ability of irrigators to pay. To change these and other basic understandings reached by Congress over thirty years ago is simply a breach of faith with power users and other beneficiaries of CRSP. As Governor Bangerter noted to the Subcommittee, "in terms of equity, the proposal fails to meet even a modicum of fairness..."

In fact, such a proposal would open the door for the State of Utah to tax power users in Wyoming, Colorado, New Mexico, Arizona, and Nevada for their own special water development schemes. It would also set a precedent for other states to tax Utah power users to finance non-Utah water programs.

This Subcommittee should not tolerate a last minute reopening of CRSP for revising fundamental cost sharing equities which have existed for over thirty years. As Governor Bangerter further observed, "power revenues are sought only because they seem to be there for the taking." They are not, and this Subcommittee should insure that it preserves not only CRSP but cost sharing arrangements which have long governed federal water resource development in this nation.

Concern Over Deletion Of
CUP Irrigation Features

While CREDA is comprised exclusively of CRSP power users, CREDA is nevertheless concerned about a recommendation to delete certain irrigation features from CUP it understands the Subcommittee received in Salt Lake City. These include the

Bjokman Hollow Dam, the Deep Creek Pumping Plant, the Mosido Pumping Plant and canals, and the North Fork Pumping Plant. Each of these projects are presently provided for in the Bureau's Definite Plan Report as well as the program envisioned in the President's Budget for Fiscal Year 1989 and their deletion would reduce the amount of water available for power generation from CUP.

Opposition to Adjustments In Stream Flows

CREDA understands the Subcommittee also received a recommendation to adjust certain stream flows of the CUP. From what CREDA can glean from the limited information available to it at this time, we must express concern regarding certain of these stream flow adjustments. We understand they will significantly impact power generation with no apparent offsetting benefit.

Other Considerations

CREDA understands that many other "adjustments" to the Colorado River Storage Project were recommended to the Subcommittee at its April 18 field hearings in Salt Lake City. These include the following:

- Rehabilitation of the Farnsworth Canal and a restudy of Uintah Basin features;

- Development of a water conservation plan for all of CUP by the Central Utah Water Conservancy District;
- Adjustment of NEPA requirements for certain fish and wildlife projects;
- Wildlife acquisition and improvement measures;
- Wetlands acquisition, rehabilitation and enhancement measures;
- Fisheries, rehabilitation, and enhancement measures;
- Stream access in Ryperion Area development measures;
- Recreation features of CUP; and
- Certain non-CUP fish and wildlife resources features including:
  - Aspinall Unit
  - Blacks Fork River
  - Seedskadee Project
  - Tremont River drainage
  - certain small dams and watershed improvements
  - Hotchkiss Hatchery
  - certain cold water fisheries
  - certain warm water fisheries.

While CREDA lacks information to fully assess the implications of these recommendations, CREDA asks the Subcommittee to bear in mind its responsibility to reject any reopening of the Colorado River Storage Project Act particularly when there has been virtually no opportunity for consideration of this matter by the public and by the appropriate federal agencies.

In conclusion, CREDA strongly urges this Committee to reject proposals to reopen the CRSP Act. The Subcommittee should immediately recommend an increase in the authorized spending for CRSP in accordance with HR 3408. If it decides that additional CRSP environmental concerns ought to be addressed or that the CRSP Act should be reopened, separate hearings should be scheduled for that purpose with full opportunity to participate afforded to CRSP power users and other interests. Such hearings should be preceded by investigations and testimony from the appropriate federal agency officials.

Thank you very much.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

19 JUN 1987

Honorable Donald P. Hodel
Secretary of the Interior
Washington, D.C. 20240

Dear Mr. Secretary:

The Department has requested that OMB review a proposal for financing the Central South Dakota (CENDAK) irrigation project, currently being planned by the Bureau of Reclamation. The project would provide supplemental water to irrigate 400,000-500,000 acres for corn production, at an estimated cost to construct of $0.75-1.0 billion (1985 dollars).

The local project sponsor proposes to finance CENDAK'S construction through earmarking of Pick-Sloan Missouri Basin Program (P-S MBP) hydropower revenues, and through the proceeds from taxable bonds issued by the sponsor, the repayment of which would be linked to P-S MBP revenues. I subsequently asked my staff to work with Bureau of Reclamation, Corps of Engineers, and Department of Energy representatives to analyze the proposal.

On the basis of this review, OMB concludes that both CENDAK and the sponsor's financing proposal are deficient and do not qualify for Administration support:

1. The proposed financing would require either (a) Federal taxpayers, in effect, to loan the sponsor construction funds at a 0.0-2.5 percent interest rate, by redirecting to CENDAK funds otherwise due the Government as repayment required by law of the Federal P-S MBP hydropower and irrigation assistance investment, or (b) an immediate rate increase of about 40 percent for power customers in Colorado, Kansas, Montana, Nebraska, North Dakota, and Wyoming, as well as South Dakota. We think neither method is desirable, since both would shift project financing from direct CENDAK beneficiaries to the general public.

2. The arrangement whereby P-S MBP revenues are linked to repayment of local bond issues constitutes the kind of Federal guarantee that is contrary to long-standing Administration policy. Linking a local bond issue with any Federal commitment to repay essentially transforms local debt obligations into Federal instruments, exacerbating the problem of Federal demands on credit markets that crowd out private and other non-Federal obligations.

Further, the Federal guarantee would make credit available under terms more favorable than would otherwise be the case. By removing part or all of the credit risk of a transaction, such a guarantee could change the allocation of economic resources, and thereby impose distortions or other costs on the economy.

3. The permanent appropriation envisioned for CENDAK from P-S MBP revenues is a financing mechanism that would bypass direct Congressional appropriations. It would create another unwarranted, specially protected class of funds not subject to annual review and revision by the Administration or Congress when Government-wide funding priorities are established for each fiscal year.

4. Finally, and most basically, Federal participation in the construction of a water project that is not economically justified under standard planning procedures and current interest rates is not appropriate. Use of such procedures and interest rates when evaluating CENDAK produces a benefit-cost ratio of 0.7:1.0, meaning a return of 70 cents for each $1 dollar invested in the project. Moreover, the new normalized crop prices recently promulgated by USDA to evaluate Federal agriculture development water projects will make this very weak economic case for CENDAK even worse. Innovative financing for a water project is not sufficient justification by itself for Administration support.

Consequently, we can find no basis to support CENDAK construction or financing as currently proposed. We do understand and appreciate the sponsor's strong interest in the project, but the related problems of agricultural overproduction and budgetary deficits of the late 1980s preclude an exception.

An argument may be put forward that the Federal Government made P-S MBP commitments in the past to South Dakota to build large irrigation projects in return for lands in the State inundated by construction of dams and reservoirs on the Missouri River. The nature of any such commitment is at best complex, but nowhere, in our view, was there any commitment to support uneconomic endeavors. The Administration in January 1984 indicated that prior commitments to individual States with regard to water development within their borders must be considered, but would be only one of several factors in negotiations leading up to project construction.

Another argument for the project may be that CENDAK is necessary to alleviate the effects of continued chronic droughts in central South Dakota. The Administration's policy is that, under such conditions, farmers should enroll in private or

Federally subsidized crop insurance programs to offset the possibility of devastating losses. The Federal Government cannot afford to build billion-dollar irrigation projects in lieu of crop insurance, particularly for a crop like corn that Government warehouses now contain roughly a one-year supply (approximately 5 billion bushels).

We appreciate the opportunity to review the plan and the sponsor's financing proposal at this early stage of project planning and formulation. We have been impressed with the diligent efforts expended by supporters of CENDAK and regret that a different outcome cannot be justified.

Sincerely,

Robert R. Dawson
Associate Director
for Natural Resources,
Energy and Science

100TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
100-618

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, 1989

MAY 11, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BEVILL, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 4567]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes.

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85-038

Power Marketing Activities

Public Law 95-91 transferred to the Department of Energy the power marketing functions under section 5 of the Flood Control Act of 1944 and all other functions of the Department of the Interior with respect to the Alaska Power Administration, Bonneville Power Administration, the Southeastern Power Administration, Southwestern Power Administration, and the power marketing functions of the Bureau of Reclamation, now included in the Western Area Power Administration.

All power marketing administrations except Bonneville are funded annually with appropriations and related receipts are deposited in the Treasury. Bonneville Power operations are self-financing under authority of the Federal Columbia River Transmission System Act of 1974 (Public Law 93-454). The Act authorizes Bonneville Power to use its revenues to finance operating costs, maintenance and capital construction, and to sell bonds to the Treasury if necessary to finance any remaining capital program requirements.

PRIVATIZATION OF POWER MARKETING ADMINISTRATIONS

The Administration continues to pursue legislation to study the sale of the Southeastern Power Administration. The FY 1986 Urgent Supplemental Appropriation bill (Public Law 99-349) contains a legislative prohibition that would suspend action on studying the sale of the Power Marketing Administrations and TVA until Congress has had an opportunity to determine whether the privatization idea is worth pursuing. The Committee reiterates its support of the provision contained in the Urgent Supplemental Appropriations Act.

The Committee supports efforts to sell the Alaska Power Administration to the State of Alaska. However, the Committee remains opposed to the sale of the other Power Marketing Adminstrations, and the Administration has been unable to state how the sale of the PMAs would be in the public interest. The Committee has received testimony from the Administration that any of the Power Marketing Administrations would not be sold without the enactment of enabling legislation.

RATE AND REPAYMENT REFORM

The Administration has not proposed changes in any noncost-based rate and repayment reform in FY 1989 that would cause a significant increase in the rates charged by the Power Marketing Administrations. The Committee has historically been a strong supporter of fiscal responsibility by the Power Marketing Administrations. However, that type of rate reform would have significant adverse impact on the economic health of the regions supported by the Power Marketing Administrations and might result in less repayments to the Federal Government because of the loss of significant energy-intensive industries in the regions. The Committee has again included bill language preventing a change from a cost base to market base for PMA rates. This language is intended to prevent a unilateral change in the terms of agreement that were made

years ago between the Federal Government and the regions served by the PMAs.

The Committee has been assured that the Administration will make no changes in the rate development process administratively. The Committee therefore directs that the rate structure not be modified without the enactment of appropriate legislation.

While no noncost-based rate and repayment reform is currently proposed, the Committee has deep reservations about the intent of the "financial improvement practices" study for the PMAs recently initiated by the Office of Management and Budget. It is appropriate to review PMA financial and repayment practices periodically in an effort to improve efficiencies, lower electric rates, and ensure timely repayment of the Federal investment in these facilities. OMB's past initiatives and its purported justification for this study, however, give reason for serious concern that the study's purpose is to renew pursuit of arbitrary rate increases for Federal power customers. The Committee intends to monitor closely the progress and recommendations of this financial study.

The following table summarizes the appropriation recommended for the Power Marketing Administrations:

TITLE V—GENERAL PROVISIONS

FUNDING OF INTERVENORS

Language is included under General Provisions providing that none of the funds in this Act shall be used to pay intervenors in regulatory or adjudicatory proceedings funded in this Act, including the appeal of administrative decisions to the courts. The Committee has revised the language included in the Fiscal Year 1987 Energy and Water Development Appropriation Act to make clear the Committee's intention that the prohibition against the use of appropriated funds to pay the legal fees or other expenses of intervenors in administrative or judicial proceedings likewise bars paying the legal fees or other expenses that an intervenor in an administrative proceeding may subsequently incur in an appeal to the courts. Taxpayers should not be called upon to fund intervenors' activities before administrative agencies or their appeals of administrative decisions to the courts.

RATE REVISION FOR POWER MARKETING ADMINISTRATIONS

A general provision is included that would prohibit the use of funds to conduct any studies relating or leading to "market rate" pricing for the six Federal power authorities.

APPLICATION OF GENERAL REDUCTIONS

The Committee has recommended bill language to provide direction for the application of General Reductions, Savings and Slippage and possible sequestrations required in FY 1989 by the Balanced Budget and Emergency Deficit Control Act of 1985.

For the purposes of the Energy and Water Development Appropriations programs, projects and activities are defined to include any and all individual items or line items listed, discussed, described, included in or in any way identified or referred to in narrative or tabular documentation or references, including but not limited to the FY 1989 budget submission of the President and supporting justification material as subsequently altered, modified or changed by Congressional action identified in House and Senate Committee reports.

It is the intention that, for purposes of applying unspecified reductions, each program, project and activity, as defined above, shall be reduced proportionately by applying the same reduction percentage as the percentage by which the account is reduced overall. It is not intended that this be used (1) to eliminate programs, projects or activities, (2) to disproportionately reduce personnel, (3) to otherwise reorder funds or priorities, or (4) to initiate unfunded new programs, projects or activities.

Senator BRADLEY. Thank you, Mr. Falbo. So you have echoed the earlier comments about the financing mechanism. You say you want the water users to pay and not the power users and other places.

Mr. FALBO. Mr. Chairman, that is not exactly correct. The power users are supportive of the program as it is in place, which envisions that power users in fact will be responsible for repayment costs.

We are talking about now a substantial change in the CRSP Act, the apportionment as spoken to earlier by Ms. McNeil, as well as the concern with the shortening of the amortization period.

It is not clear to us at this point what that means to the power users.

Senator BRADLEY. So that you need to look at the effect of the repayment provisions as it relates to the amortization period and as it relates to apportionment generally.

Mr. FALBO. Chairman Bradley, let me defer also for a moment to Don Allen, who I think probably can give you perhaps a clearer picture of our concern.

Mr. ALLEN. Let me just answer that question.

Senator BRADLEY. Your clock is now running.

Mr. ALLEN. My clock is much shorter than anybody else's here, I understand.

I have spent all of my professional career and more of my life associated with the Colorado River. All of my professional career has been associated in one form or another with the upper Colorado River storage project.

I would like to first accept your invitation to correct you in anything you threw out, and I have to emphasize as strongly as I possibly can the error in your statement that this is the last great effort of CRSP.

It may be, Senator. If the Colorado River water people or the Wyoming or the New Mexico people heard that, they would be banging down the doors. It may be. However, that is not reality as they see it.

CRSP—and this I think will help answer your question. CRSP can be viewed as a giant umbrella, the high dams and the fabric of which represent the power revenue generation potential. Wayne Aspinall brought in under that umbrella a lot of participating projects, and as long as they stayed under that umbrella they were perfectly feasible, they were perfectly paid out.

Now, what has happened is that the umbrella is old. Some projects have not been built yet, and the State of Utah is proposing as one of the latecomers to pull that umbrella over.

They are going to relieve the Federal burden for up-front financing, take the revenues, and pledge them directly to a private bank. That means those revenues that everyone had coming up that umbrella stalk and Wayne Aspinall assured were in lockstep—21 percent to Utah, 46 percent to Colorado; everybody would get their share, nobody would be behind, nobody would be ahead.

Utah pulled it over, and someone is going to get wet when that umbrella comes out from underneath those projects. Colorado is going to insist on exactly the same thing for its projects, because most of them have not been built. The list is long.

Some of us, when I was in the Budget Bureau, would laugh at some of those old projects. But they mean a lot to Colorado.

And in the context of a Utah-only solution to a Utah-only problem, this thing, this old Act—you yourself, Senator, said the reauthorization of CUP. That is a real slip. This is the authorization and continued authorization of CRSP. It may be the reauthorization of CUP. Only this Committee is in charge.

But the Act we are dealing with is that umbrella, and everybody had their hand on a certain amount of the power revenues. When Utah's are pulled out and pledged against an amortization schedule for private debt, they automatically go against everyone else or come out of everyone else's, and they are first.

And Colorado is going to say: Well, how will we ever get our power revenue share to build out projects, because we are waiting?

And I am sorry to take so long, Your Honor. But this thing that they created——

Senator BRADLEY. I am not "Your Honor". [Laughter.]

Mr. ALLEN. This thing they created, it may be old, it may be tarnished. The Chairman is to decide. But it is absolutely senseless to think we are dealing with a Utah-only concern.

Senator BRADLEY. I appreciate your correcting the record.

Next.

STATEMENT OF DEBRA SLIZ, DIRECTOR OF GOVERNMENT RELATIONS, AMERICAN PUBLIC POWER ASSOCIATION

Ms. SLIZ. Mr. Chairman, my name is Debra Sliz. I am Director of Governmental Relations for the American Public Power Association.

APPA represents 1750 municipal and publicly owned electric utility systems across the country, including those systems represented by ICPA, including those systems represented by CREDA, and a total of 500 publicly owned utilities that buy power from the federal power program. That includes not only the upper basin of the Colorado River, but the lower basin of the Colorado River, the Pacific Northwest, the Missouri River, California, all the way across the country.

I am going to be an echo of what the first two witnesses have said and so I will keep it very brief.

We at APPA originally supported the first increase in ceiling for the authorization that Senator Garn and Senator Hatch introduced. We did that recognizing that we would pick up a substantial portion of the tab.

You cited $6,000 per acre, Senator Bradley. My numbers, based upon the latest Bureau of Reclamation documents available, were $3,966 per acre.

Of that, $67 would be picked up by the water users. The rest would be picked up by the power users. Whether it be $6,000 or close to $4,000, we are paying almost 98 percent of all of the irrigation development in that project.

Nevertheless, we were willing to do that, again on the basis of the tripartite partnership. We have heard in the last month that this is no longer feasible, to authorize an increase of $764 million,

and so we have worked with the delegation and with the project sponsors to try to slim that down.

We have agreed that if the Diamond Fork hydro plant is developed, it should be developed with non-federal up-front contributions, and we are willing to look at proposals for that.

We like the fact that the district has managed to slim down the irrigation system from $400 million to $280 million, and we would be happy to look for additional cost savings there.

The Garn bill is a significant improvement over the House bill, and my written statement will go into detail on that. But we cannot at this point support the bonding proposal, for three reasons.

In our view, it signals the fact that the U.S. government and the Bureau of Reclamation is pulling out of the reclamation program, and in effect turning the power community into the U.S. Bureau of Reclamation for the 1990's.

It is making irrigation an interest-bearing feature for the first time and turning the tab again over to the power users.

And we feel it is opening the door to turning power into a cash register to finance whatever irrigation projects are still out there waiting to be built.

This is not just kind of a fantasy. The Animas-La Plata project pending before your Subcommittee now is a participating project of the CRSP. Colorado thinks they are entitled to their share of the river. They have an Indian water rights settlement employed—wrapped up in that bill. They have made significant up-front contributions. Yet, they propose to finance the irrigation and drainage in the traditional way.

If Utah comes in now and says, we are going to bypass the appropriations process, we are going to get money directly by bonding against power revenues, why would not Animas-La Plata say we should deserve that too?

There are five other participating projects in the CRSP. Why should they not say, we are entitled to the same kind of bonding scheme?

And there are projects not yet authorized, such as the Sendeck project in South Dakota, which floated this very idea a year ago, saying we do not see any other way to build, to get our project built; why not use the power revenues as a bonding mechanism?

Senator BRADLEY. And if that happens, so what?

Ms. SLIZ. And if that happened, the cumulative impact on the CRSP project power users is unknown today.

The CUP people have made a good faith effort to say, we do not want to raise your rates any higher. That is just one project. The numbers are in dispute, as the earlier witness said, on that issue.

But assuming even if it were true, we are talking about cumulative impact in the CRSP and cumulative impact across the country.

Mr. ALLEN. We are 50 percent, Senator, on this proposal alone. As of last Friday's repayment study, this is a 50 percent hike. This is not a one or two mill hike, as was suggested earlier.

A 50-percent rate hike, based upon the studies that were presented last Friday. Our engineers were there.

Senator BRADLEY. For?

Mr. ALLEN. For CRSP customers, for this one Central Utah scheme.

Senator BRADLEY. In how many States?

Mr. ALLEN. In the States of Arizona, Nevada, Colorado, Wyoming, and Utah.

I brought a map, and everywhere it is red is our coop and municipal and irrigation districts.

Senator BRADLEY. So that in all of the red areas, their rates go up 50 percent in power costs?

Mr. ALLEN. No, Senator, the power costs from CRSP. Remember, they have had to build other power sources since. So once it is blended out to the households, it is going to be less.

But their primary source for many of them and secondary source for some will go up 50 percent.

Senator BRADLEY. But there are 20 Senators who are cosponsors of this bill in many of the same States.

Mr. ALLEN. They are not cosponsors of the bill that we got 24 hours ago, Senator. They are cosponsors of the original plain vanilla and conventional authorization bill. We do not have a bill—we saw it less than 24 hours ago, although we insisted that we get it earlier and could not.

And I cannot guarantee you. I urge you to consider that they are not sponsors of this.

Ms. SLIZ. If I can reclaim the time from the gentleman from Washington, DC, I would just like to say in closing that we do not want to close the door on the Central Utah project and on discussions as to how to complete the Central Utah project.

But if 1988 is the year that reclamation policy for the country enters a new stage, a new evolution, then the power people want to bring a lot of different parties to the table and a lot of different issues to the table. And it cannot be done, as we have said, on the basis of numbers which came out last week and language which came out this week.

And we want to continue to cooperate in this effort, but we cannot support the plan that is before the Committee right now.

[The prepared statement of Ms. Sliz follows:]

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Statement of
Deborah Sliz, Director of Government Relations
AMERICAN PUBLIC POWER ASSOCIATION
before the
SUBCOMMITTEE ON WATER AND POWER
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
on
S. 1737, A BILL INCREASING AMOUNTS AUTHORIZED FOR
THE COLORADO RIVER STORAGE PROJECT

June 9, 1988

Mr. Chairman, members of the subcommittee, my name is Deborah Sliz. I am Director of Government Relations for the American Public Power Association.

APPA is the national service organization representing over 1,750 local public power systems in 49 states. Approximately 500 local public power systems purchase power from one of the five federal power marketing administrations. Included in APPA's membership are publicly owned utilities in the six-state region served by the Colorado River Storage Project (CRSP), which utilities are also members of the Colorado River Energy Distributors Association (CREDA).

APPA is on record in support of the CRSP authorization increase proposed in S. 1737 and the companion House bill H.R. 3408. The federal government and the project beneficiaries have already made a substantial commitment to the Central Utah Project (CUP). APPA shares that commitment and strongly believes the project should be completed.

Our preference is to see the project completed in the traditional way, that is, through the appropriation of federal funds, with the federal investment repaid over time by project beneficiaries according to existing project allocation schedules. We support completion of the CUP in this manner recognizing that this will mean a significant financial contribution from CRSP power users, because under reclamation law, power users repay not only the federal investment (with interest) in power facilities, but also those costs attributable to irrigation that are determined to be beyond the irrigators' ability to pay. In the case of the CUP, those irrigation assistance costs allocated to be repaid by power revenues are estimated to be $3,897 per acre. Irrigators will pay $67 per acre.

Since APPA endorsed H.R. 3408 and S. 1737, many have suggested that a $754,436,340 authorization increase to complete the CUP is not politically possible. Budgetary and political realities indicate that there must be changes in the scope and costs of the project. APPA has worked with the project sponsors to try to scale down and revise the project to a size and scope that is politically feasible, and we endorse the efforts of the Central Utah Water Conservancy District (CUWCD) and the Utah delegation to eliminate certain project features, reduce costs for the Irrigation and Drainage (I & D) system and seek non-federal financing of the Diamond Fork power plant.

APPA cannot, however, support the draft financing proposal that is in draft from before this committee today. The draft proposes to finance private development of the CUP I & D facilities through bonds backed by CRSP power revenues. CRSP revenues adequate to repay construction costs of the I & D and

hydropower facilities of the Bonneville Unit, plus interest and financing changes would be diverted from the Upper Colorado River Basin Fund to repay the bonds. Irrigators would continue, under the plan, to be responsible to repay I & D capital costs within their ability to pay.

The draft is a creative effort to try to find a way to finance the I & D project in a manner that is acceptable to the power users and to Congress. We note that the draft proposal contains a provision that the impact on CRSP power rates of financing the non-federal construction of the CUP shall not exceed the impact that would have occurred if CUP construction had been undertaken with federal funds. That is a very positive step and demonstrates the good faith of the drafters. Nevertheless, it does not alleviate the problems the proposed financing plan presents for CRSP customers and other federal power users. APPA cannot endorse the financing plan for these reasons:

- Private development of the CUP I & D features establishes a completely new reclamation policy for the western states. In effect, it would signal the withdrawal of the federal government from the reclamation program and a decision by Congress to turn future financing of such projects over to the power users.

- The bonding proposal makes investment in irrigation facilities of a federal reclamation project interest bearing for the first time and burdens power users with the obligation to repay that interest.

- The plan opens the door to a number of authorized but unconstructed projects--within and without the CRSP, to seek similar financing. Unauthorized

projects may also attempt to finance development through similar means, as was proposed by the sponsors of the CENDAK project in South Dakota.

The precedent established by this proposal raises serious practical concerns for CRSP power users and all federal power customers: 1) What is the cumulative impact on CRSP power rates if this financing privilege is extended to other authorized, not constructed CRSP participating projects? 2) What assurance does the power community have that it will not be turned into a "cash register" to finance all future reclamation projects--authorized and not-yet-authorized, feasible and infeasible projects?

The CRSP itself aptly illustrates APPA's concerns. There are a number of CRSP participating projects outside Utah that are authorized and awaiting construction funds. Included in that group is the Animas-La Plata project, which is seeking to modify its authorization through legislation now pending before this committee. The bill, the Colorado Ute Indian Water Rights Settlement Act, requires up front contributions from the State of Colorado, but finances construction and repayment of irrigation features under existing law.

Colorado is one of the six states participating in the CRSP, and federal power customers in Colorado purchase CRSP power. Colorado asserts a right equal to that asserted by Utah to have its reclamation projects completed to deliver its share of the Colorado River. If Utah is permitted to finance completion of the CUP under a new, private development plan, why would Colorado not insist that it too be allowed to by-pass the appropriations process to finance Animas-La Plata?

What would be the impact on CRSP rates if both the CUP and Animas-La Plata projects are financed in this new way? What would the impact be if all the remaining CRSP participating projects are so financed?

There are also a number of authorized but unconstructed projects in other parts of the country. The projects have not yet been built because Congress, or the Administration, has not determined that appropriating construction funds is a feasible, worthwhile federal investment. Some of these projects may no longer be feasible, some may be feasible under traditional analysis, but not if the analysis is adjusted to eliminate production of surplus crops. If the federal government withdraws from reclamation financing, and the CUP bond financing model is in place, what will protect the power users from being tapped to upfront finance those projects that Congress and the Administration no longer want to finance.

Notwithstanding the good efforts of the bill sponsors to ensure that CRSP rates are not adversely impacted by the new financing proposal, the protections contained in the draft does not go far enough. The power users do not want to be the U.S. Bureau of Reclamation for the 1990s.

APPA, like CREDA, is not flatly opposed to any change in financing irrigation works. We must, however, impress on the committee the fact that this is a major shift in reclamation policy that cannot be evaluated and embraced on the basis of a preliminary repayment analysis of the CUP alone, and without careful and thorough consideration of the impact of this proposal on the total CRSP, and throughout the western states.

We hope Senator Garn and the Committee will accept the CREDA offer to convene a meeting of all affected water and power parties as quickly as possible to develop a solution that will enable the CUP to be completed. APPA is eager for the opportunity to participate in these discussions.

APPA is aware that a new version of S. 1737 is available in draft form. We have not had time to review that draft completely, and we would like to reserve the opportunity to submit additional comments on that draft at a later date. Based on our initial reaction, however, it appears that the Senate bill is a significant improvement over the House draft legislation circulated by Representative Owens which was the subject of the April hearing.

I would like to briefly highlight those areas of the House draft of concern to public power:

Development of Commercial Power. Section 2 of the Owens bill grants an exclusive, perpetual license to the CUWCD to develop the Diamond Fork power plant feature of the CUP. There is no requirement that the project be operated to maximize the total power production potential of the CRSP, or that the power be marketed throughout the Western Area Power Administration under existing reclamation policies.

Under the Owens draft, power users would remain liable to repay all irrigation assistance costs associated with the CUP, but would not receive any of the power generated at the Bonneville Unit. It is, quite simply, inequitable to retain power's irrigation assistance repayment obligation while

simultaneously allowing the power potential at this project to be developed privately and marketed without regard to federal reclamation law. In addition, the exclusive license to operate the project could result in its operation in a manner inconsistent with other CRSP projects, to the detriment of power users throughout the region. This proposal is unacceptable to APPA.

We do not oppose as a matter of policy non-federal upfront funding to bring to completion federal hydro projects. In 1986, APPA adopted a resolution on non-federal upfront financing which explicitly supported the efforts of public power systems in the Southwest desiring to finance development and federal operation and marketing of new hydro in that region, provided that any plan continued "all the benefits of coordinated federal operation and marketing." The resolution also stated that APPA would support such efforts in other regions "so long as such plans preserve preference in marketing and public ownership and operation of new projects." Stated differently, to be supported by APPA, non-federal upfront financing proposals would have to provide for a continuation of all of the benefits of coordinated federal operation and marketing.

While the Congress can set forth the general parameters of the project for which upfront financing will be required, we believe it is inappropriate for Congress to designate the non-federal financing agent. CRSP power purchasers will be liable for repaying the non-federal contribution and are entitled to the best possible bargain. This can only be ensured if the participant is selected through a competitive process. Such a process would force a financial discipline on all potential non-federal developers, thereby protecting those ultimately responsible for paying the bill--the power users.

The Garn bill appears to have resolved these concerns, by providing that development of Diamond Fork hydro power facilities will be consistent with the CRSP Act and by deleting the grant of the exclusive, perpetual license. We support this provision and urge its support by the committee.

Central Utah Project Fish and Wildlife Commission. The Owens draft proposed to establish a commission to administer expenditures of federal funds for fish and wildlife mitigation and enhancement and $15 million contributed annually from revenues of CRSP power features located in or adjoining the state of Utah. The $15 million is to be "available for tangible fish and wildlife and environmental and conservation needs within the Colorado Utah Project, which needs are unknown or the costs of which are undetermined as of the date of enactment of this Act."

APPA opposes the creation of the commission and the $15 million assessment on CRSP power users for the following reasons:

- Power revenues should go to the repayment of power project costs, not to address problems for which power users have no responsibility. In this case, there is no demonstrated nexus between the construction and operation of power facilities and the purposes for which the funds collected might be expended.

- The proposal is inequitable because all CRSP Upper Basin power users would be forced to contribute to the financing of fish, wildlife, and other activities in Utah. Non-Utah power purchasers do not receive any benefits from their contributions to this fund.

- The precedent established could destroy the economic benefits of the federal power program. If this provision is enacted, it is probable that other Upper Basin states would seek to establish similar funds. In addition, federal power revenues have been seen as a complete or partial solution to such problems as the federal budget deficit, fish and wildlife enhancement, claims of native Americans, and needed revenue for new project construction. If Congress permits a special tax on power users to deal with nonpower related problems in this instance, pressures will increase in other states and regions to tap the cash register for their own purposes. Increases in federal power rates which would result would work to the economic detriment of hundreds of communities and millions of Americans.

We also suggest that the idea of the commission itself be reconsidered. We agree with Utah Governor Bangerter who testified at the April 18 field hearing that the commission would be "duplicative, disruptive, and in fact counter productive."

Governor Bangerter also testified that the commission is "without precedent." Supporters of the commission have apparently suggested that a precedent does exist in the Pacific Northwest. The Pacific Northwest Electric Power Planning and Conservation Act establishes an electric power planning council, and this council, among other activities, recommends plans for fish and wildlife mitigation and enhancement programs. But this is no precedent for what is proposed here for several reasons:

- In the Pacific Northwest, the council's recommendations are advisory,

subject to approval of and implementation by the Bonneville Power Administration. The proposed Utah commission would have actual implementation authority and no real accountability.

- The Northwest council proposes programs which are regionwide, covering the entire Columbia River system and its tributaries. The proposed Utah commission would collect ratepayer contributions from several states, but spend them only in one state.

- Power users in the Pacific Northwest pay only for fish and wildlife mitigation and enhancement activities which are directly related to power production facilities on the Columbia and its tributaries. No nexus is required between power production activities and projects which might be funded by the proposed Utah commission.

- There is an extensive public process required of the Northwest council prior to adoption or modification of mitigation and enhancement measures. No public process appears to be required for plans approved by the Utah commission. Instead, the commission receives an annual check for $15,000,000 and then decides on its own how to spend it.

- The Pacific Northwest council members are selected by the governors of each state. They are expected to consider all interests within their state and the interests of their region. The Utah council would have representatives of specific interest groups whose primary concern would be promoting those specific interests. The power users, who are expected to pay the bills, have no

guaranteed representation on this council.

The Garn bill does not create a new commission, nor does it assess CRSP power users for costs go future fish and wildlife and recreation programs in Utah. Instead, it authorizes a substantial program of mitigation measures as traditional Section 8 expenditures. We support the Garn bill on this point.

National Academy of Sciences Study. Finally, we wish to express our concerns regarding the proposed study to be conducted by the National Academy of Sciences which would be required under the Owens proposal.

We are not certain of the intent of the study, but are concerned that it might be nothing more than a means to evaluate the use of the CRSP and the Colorado River with the intent to make significant changes in the operation and manner in which repayment costs are recovered. The study parameters will do nothing but challenge the present users of the river and in all probability seek to enhance present uses that are recovering little or no costs at the expense of power users.

A similar study was proposed and rejected by the Congress in 1978. We see no reason why such a study is more appropriate today than it was then. Indeed, in view of the studies being conducted below both Flaming Gorge and Glen Canyon dams, we would suggest that this study is not necessary and should not be required.

The Garn bill deletes the NAS study requirement and we endorse its

deletion.

I thank the committee for the opportunity to testify today. In conclusion, I would like to emphasize that, despite the fact that APPA cannot endorse the financing plan as presently contained in the Garn draft, we remain committed to the task of trying to fashion a bill to complete the CUP. If the CUP is to be completed, creativity and new ideas must be brought to the task. We are not opposed to new proposals that will enable the reclamation program to continue. We cannot, however, endorse such a dramatic evolution in reclamation policy without careful analysis by all affected parties, and without a clear, conscious understanding of the parameters and impacts of the proposed changes.

APPA hopes the committee will act to implement CREDA's request for discussions by all affected interests by calling for meetings to be held as quickly as possible. We hope today's hearing will open the doors of communication, not close them, in the interest of achieving a common goal.

Senator BRADLEY. Thank you.

STATEMENT OF MORGAN DUBROW, CHIEF ENGINEER, NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION

Mr. DUBROW. Senator, I am Morgan Dubrow. I am chief engineer of the NRECA and I speak for the 1,000 rural cooperatives in 46 States.

I also say parenthetically that I was in the Interior Department when this bill was originally passed.

I am not going to belabor you and the other members by repeating. We, NRECA, has always supported and will continue to support comprehensive development, and we would like to see the authorization increased and the government build this and the Western Area Power Administration market it.

We cannot support at this—we recognize that times have changed and that we may have to find and go along with some alternative proposal. But we are not in a position to do that without conferring with our board of directors and our members.

But I would also like to point out that our rural cooperatives on the average are now paying 15 percent more for their power than the adjoining utilities, in some instances as much as 50 percent more. And the only thing that has enabled some of them to continue is what is now low cost power that they get from the government.

In the case of CRSP, when they paid eight mills for that power when we first offered it to them at Interior, you could buy coal-fired power for four mills, and we had a hard time getting some of them to accept it. Today it is looked on as a bonanza.

But these people were willing to buy it at that time, and I think they should be able to keep it at prices based on actual costs.

Thank you very much.

[The prepared statement of Mr. Dubrow follows:]

STATEMENT OF NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION
ON ADDITIONAL FUNDING FOR CENTRAL UTAH PROJECT
BEFORE THE SUBCOMMITTEE ON WATER AND POWER RESOURCES
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

JUNE 9, 1988

Mr. Chairman, my name is Morgan Dubrow, Chief Engineer of the National Rural Electric Cooperative Association (NRECA). NRECA is the national association of over 1000 rural cooperatives which supply central station electricity to some 25 million people in the rural areas of 46 states.

This statement sets forth NRECA's position on the Bonneville Unit, the Central Utah Project of the Colorado River Storage Project, authorized in 1956.

Authorization of additional funding as proposed in S. 1737 will be required to complete the Colorado River Storage Project. The present ceiling of $2,171,308,000 should be increased by $754,436,000. We understand that most of the additional funding is needed to complete the Bonneville Unit of the Central Utah Project. Traditionally, the Bonneville Unit would be constructed and operated by the Bureau of Reclamation, and the power commingled with other CRSP power and marketed to preference customers by the Western Area Power Administration.

Our association has always supported federal development of multiple-purpose projects, as set out in the following resolution:

DEVELOPMENT AND FEDERAL MULTIPLE-PURPOSE PROJECTS -- The critical need for energy in our nation today and the near future necessitates the maximum use of the falling waters in our nation, a replenishing resource that requires no further research and development to harness.

We urge the Congress to appropriate the funds necessary to complete the planning, the environmental and feasibility studies, and to authorize and appropriate funds to construct all feasible multi-purpose projects as rapidly as practical, and also install electric generation in all existing non-hydroelectric projects where feasible.

Furthermore, Congress is urged to appropriate funds to enable pre-authorization river basin planning including hydroelectric features, so that construction may be undertaken during subsequent years on a logical sequence of multi-purpose river basin development.

All such studies and subsequent development and marketing should be consistent with federal preference laws.

On May 4, 1988, we submitted testimony to the House Interior Committee, Subcommittee on Water and Power, regarding proposed modifications to the Central Utah Project. A copy of that testimony is attached.

NRECA supports S. 1737. We supported the original authorization of the Colorado River Storage Project. We continue to support full federal development of that project. Our position is completely consistent with resolutions adopted by NRECA's membership over many years.

In taking that position, however, we do not want to stand across the path of reasonable alternatives that will lead to the completion of the Central Utah Project and the CRSP in a fashion that will provide the benefits originally intended for the people of Utah.

We very recently obtained a copy of a proposed bill to authorize additional funding for the Colorado River Storage Project and reconstitute the Central Utah Project. We have not had an opportunity to fully analyze all the specifics of the bill.

At this point, we are confining our comments to concepts contained in Sections 1 and 2 of the bill, which is a fundamental

departure from traditional Reclamation Law and a substantial change to the Colorado River Storage Project Act.

The proposed bill would increase the appropriations ceiling for CRSP by $394,086,268 and index it to construction costs. Since the bill would also permit the private development of both the Diamond Fork power feature and the irrigation unit, we do not see why the ceiling needs to be increased by this amount.

While NRECA prefers federal development of CRSP as currently authorized, we will not oppose the nonfederal development of Bonneville Unit features. However, if the irrigation unit is developed by nonfederal interests, we are obliged to oppose the use of CRSP power revenues to pay any of the costs allocated to this private irrigation development.

Federal power consumers pay a significant portion of irrigation costs for federally developed irrigation projects. But, power consumers are assured that those irrigation projects will be operated under Reclamation laws including the Reclamation Reform Act of 1982. No such assurances accompany private development of irrigation.

Congress in its wisdom developed much of the West by making hydro power the paying partner for federal irrigation development. Traditionally, capital inyestments in irrigation have been interest-free and paid for by power revenues after repayment of the power investment over not more than 50 years.

The proposal in this bill as we understand it would provide for interest-bearing investment in irrigation, financed by the sale of bonds by a nonfederal investor, to be repaid by CRSP power revenues along with the federally funded power investment. In view of this, we are at a loss to understand how the projected CRSP rate increases, attributable to the Bonneville Unit, could possibly be less than if the project were fully federally developed as currently authorized.

We call attention to the impact of this bill on the allocation of benefits of the Colorado River Storage Project as between the participating states.

We also note that the proposed bill could permit the development and ownership of the Diamond Fork power facilities by nonfederal interests in perpetuity, as contrasted with the 50-year license requirement of the Federal Power Act.

In closing, we reiterate our strong commitment to federal development. However, we understand contemporary realities. If S. 1737 is not achievable, we still want the people of Utah to receive the benefits to which they are entitled, and we are willing to work with Central Utah Project proponents and the Congress to achieve that end.

Attachment

STATEMENT OF NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION
ON ADDITIONAL FUNDING FOR CENTRAL UTAH PROJECT
BEFORE THE SUBCOMMITTEE ON WATER AND POWER RESOURCES
COMMITTEE ON INTERIOR, HOUSE OF REPRESENTATIVES

MAY 4, 1988

Mr. Chairman, my name is Morgan Dubrow, Chief Engineer of the National Rural Electric Cooperative Association. NRECA is the national association of over 1000 rural cooperatives which supply central station electricity to some 25 million people in the rural areas of 46 states.

This statement sets forth the National Rural Electric Cooperative Association's (NRECA) position on the Bonneville Unit, the Central Utah Project of the Colorado River Storage Project (CRSP), authorized in 1956.

Authorization of additional funding as proposed in H.R. 3408 will be required to complete the Colorado River Storage Project. The present ceiling of $2,171,308,000 should be increased by $754,436,000. We understand that most of the additional funding is needed to complete the Bonneville Unit of the Central Utah Project. Traditionally, the Bonneville Unit would be constructed and operated by the Bureau of Reclamation, and the power commingled with other CRSP power and marketed to preference customers by the Western Area Power Administration.

Our association has always supported federal development of multiple-purpose projects, as set out in the following resolution:

DEVELOPMENT AND FEDERAL MULTIPLE-PURPOSE PROJECTS -- The critical need for energy in our nation today and the near future necessitates the maximum use of the falling waters in our nation, a replenishing resource that requires no further research and development to harness.

We urge the Congress to appropriate the funds necessary to complete the planning, the environmental and feasibility studies, and to authorize and appropriate funds to construct all feasible multipurpose projects as rapidly as practical, and also install electric generation in all existing nonhydroelectric projects where feasible.

Furthermore, Congress is urged to appropriate funds to enable pre-authorization river basin planning including hydroelectric features, so that construction may be undertaken during subsequent years on a logical sequence of multipurpose river basin development.

We are aware of proposals that substantially depart from traditional reclamation policies. Specifically, we oppose the Central Utah Conservancy District's proposal to own the Diamond Fork Dam and Power Plant in

perpetuity. We also object to the District marketing the power commercially and not subject to preference laws, a violation of the preference principle under which the Bonneville Unit and CRSP were authorized. The following resolution approved on February 10 at the NRECA 1988 annual meeting sets out our members' strong opposition to such a proposal:

> OPPOSITION TO CHANGES IN FEDERAL HYDROELECTRIC PROJECT REPAYMENT PRINCIPLES -- We oppose proposals to alter the just, reasonable and equitable principles which for over a half century have governed rates charged electric consumers to repay the government's cost of constructing hydroelectric projects.
>
> Such proposed changes include, but are not limited to, changes in ratemaking based on straight line amortization and diversion of power revenues for front-end funding of construction costs or to guarantee repayment of bonds sold to provide nonfederal funding for irrigation and other features, and other alterations to long-standing principles governing power revenue assistance in the return of irrigation costs will result in unwarranted rate increases. These unwarranted increases would fall upon small farms, ranches and small town America with devastating impacts, and would accelerate the already dismayingly high number of farm foreclosures and small town business and banking

failures. These rate increases would be nothing more than a special tax on the many millions of consumers in more than 33 states served by the federal power marketing administrations.

Therefore, we vigorously oppose changes in historic repayment principles because of the resulting unwarranted rate increases.

We reaffirm our commitment to repay fully the federal government's cost of constructing hydroelectric projects with interest. In the western regions, we also reaffirm our commitment to assist in the return of irrigation costs in accordance with existing principles.

We are also opposed to the creation of a commission funded by CRSP power revenues to carry out an unspecified fish and wildlife enhancement plan. Fish and wildlife protection is part of the project authorization to be carried out by federal agencies with expertise in these matters. This is another proposal to use power revenues for unauthorized purposes which is probably allied with the proposed Upper Colorado River Resources Program which was the subject of the following new resolution adopted unanimously at our 46th annual meeting, February 8-10, 1988 in New Orleans, Louisiana:

UPPER COLORADO RIVER RECOVERY PROGRAM -- "The Recovery Implementation Program for Rate and Endangered Species in the Upper Colorado River"

suggested that the United States Bureau of Reclamation (USBR) pay annual recovery costs of $1,500,000 to be provided through the operation and maintenance fund of the USBR. This means that it must subsequently be provided by the electric power customers which purchase Colorado River Storage Project (CRSP) Act power.

Anticipated changes in water releases from the Flaming Gorge Reservoir may result in an additional $6,000,000 in costs.

The CRSP Act does not include fish mitigation costs; it explicitly provides that mitigating costs for fish species are nonreimbursable; and explicitly states that the CRSP power plants must be operated so as to produce the greatest practicable amount of power and energy that can be sold at firm power and energy rates. Consequently, there appears to be a direct conflict between the provisions of the CRSP Act and the proposed recovery program. These conflicts have not been addressed through an open public process where the power customers are represented and it has not been conclusively shown that the dams and reservoirs and their operations negatively impact the habitat of the endangered species.

We support a recovery program whose costs are borne by the state and federal governments and strongly oppose the use of federal revenues from

electric power sales for mitigation costs for the endangered fish species in the Colorado River. We also strongly oppose the imposition of additional power costs associated with changes of water releases for fish mitigation purposes from any federal reservoir built under the CRSP Act.

We also oppose review of the project by the National Academy of Sciences and the General Accounting Office because it falls under the purview of the Bureau of Reclamation, the Fish and Wildlife Service, and the Western Area Power Administration.

NRECA remains strongly committed to federal development as we were when we supported the authorization for the Colorado River Storage Project. If the Diamond Fork Dam and Power Plant are developed by nonfederal interests, we believe they should be built and operated based on the federal reclamation model, with the power marketed through the Western Area Power Administration and with power assistance to irrigation in the traditional reclamation fashion.

Thank you for this opportunity to present our views on H.R. 3408.

Senator BRADLEY. Thank you very much.

Well, this has surely presented a different point of view, and that is what hearings are for. And I am sure that you will amplify the record in the next 30 days with a more thorough review of the existing substitute. The Committee would welcome that.

And at a future hearing, we would hope that you might participate if such a hearing was necessary.

Thank you very much.

Our next panel will consist of: David Conrad, Water Resources Specialist, Friends of the Earth; Ed Pembleton, Director of Water Resources Program, National Audubon Society; Lynn Greenwalt, Resources Conservation; Ed Norton, Grand Canyon Trust.

Let me welcome all of you to the Subcommittee. We are under real time pressure here and so I hope that you will limit your comments to the highlights. You have had the benefit of hearing all of the earlier witnesses. If you could limit them to 5 minutes, I would appreciate that, or even a little less, and then we might actually be able to finish this hearing without reconvening in the afternoon.

Please begin.

STATEMENT OF EDWARD NORTON, PRESIDENT, GRAND CANYON TRUST

Mr. NORTON. Senator Bradley, thank you very much. I have been——

Senator BRADLEY. Identify yourself, please.

Mr. NORTON. My name is Edward Norton. I am president of the Grand Canyon Trust. Grand Canyon Trust is a regional conservation organization focusing on public lands, water, and other natural resources and issues in the Colorado plateau.

My colleagues have indicated that I should go first, although I was not first on the list, and I will be very brief.

I would like to confine my testimony to one issue affecting the Colorado River storage project, and that specifically is the operation of Glen Canyon dam. The operation of Glen Canyon dam is seriously threatening irreplaceable natural resources in the Grand Canyon. That is the stark conclusion of the Glen Canyon environmental studies, not merely the assertion of the environmental organizations.

The Secretary of the Interior has decided not to take any definitive action to protect Grand Canyon National Park. Therefore, we believe that Congress must act and that any legislation affecting the Colorado River storage project should address the impact of Glen Canyon dam on the Grand Canyon.

Specifically, we would suggest that the Secretary of the Interior or that Congress require the Secretary of the Interior to study, develop, and implement criteria in accordance with the National Environmental Policy Act to develop long term operating criteria for Glen Canyon dam that will protect all the values and resources of the Colorado River, public lands, and national parks in the Colorado River system.

Secondly, Mr. Chairman, we would recommend that Congress require that the Secretary of the Interior develop and implement interim operating criteria which would mitigate the impacts identi-

fied by the Glen Canyon environmental studies and would further enhance and protect resources in the downstream environment from Glen Canyon dam.

Specifically, we would recommend that those interim operating criteria include minimum flows, maximum flows, and criteria which would reduce the rate and amplitude of fluctuations of water releases from Glen Canyon dam for peaking power purposes.

Thank you very much.

Senator BRADLEY. Mr. Greenwalt, welcome back to the table. You are back for your second appearance in one hearing.

STATEMENT OF LYNN A. GREENWALT, VICE PRESIDENT FOR RESOURCES CONSERVATION, NATIONAL WILDLIFE FEDERATION

Mr. GREENWALT. Let me very quickly say, Mr. Chairman, I represent the National Wildlife Federation, with 5 million members nationwide and 50 national affiliates across the country.

Very quickly, let me also say that the National Wildlife Federation is prepared to support enactment of legislation which would increase the cost ceiling for CRSP, but with some certain understandings.

Recognizing, as has been expressed this morning, that recent events have made some of the details unclear, I would like to highlight for the Subcommittee the specifics and concerns we have that will determine the degree and the detail with which we can support this legislation.

One of the particular concerns we have is that the Bonneville unit of the Central Utah project should be modified to respond to contemporary needs and values. Said another way, we believe that new legislation for the CUP and Colorado River storage project generally should be guided by the realities of today, rather than by conditions as they may have existed in years past.

We recommend four major and related principles to guide your deliberations over this complex project:

First, it must be built and operated in a way that is more sensitive to environmental values and recreational use;

It must be—the completion of the project should be linked to greatly improved and coordinated management of water resources along the Wasatch Front;

The use of the water and the power developed by the project should be compatible with the protection and management of the resources of the Colorado River Basin;

And finally, the proposal must respond to federal budgetary realities.

Among the other concerns we have that I would like to address briefly, it relates to Senator Garn's bill as we presently understand it, recognizing that it is in a state of evolution. It should be improved by remedying certain key weaknesses and adding some important new initiatives for better resource management.

First of all, water conservation and coordinated operation of the numerous water systems of the Wasatch Front should be developed to as near the state of the art as possible. This is imperative.

We believe the Central Utah project Fish and Wildlife Commission and fund as proposed by Representative Owens is a real break-

through and we support that. This proposal is something that can benefit all of those who have been enjoying the benefits of the federal investment, and they would pay appropriately for an assured continuation of mitigation measures once the project is completed or when it nears completion.

We support this.

The district's cost-sharing plan should be structured to provide a market test for new development, and this I think relates in some ways to the plan perhaps to issue bonds. We are very concerned that all of the elements of this proposal be looked at, particularly with respect to using power revenues for discharging obligations against the projects, because much of that may be based upon a federal guarantee to purchase power.

And that is another way of distorting the market approach, which in principle we believe in.

We believe that power generation at the Diamond Fork plant should be incidental to municipal, industrial, and irrigation water deliveries, and that diversion of water out of the Colorado Basin solely for hydropower should be expressly prohibited.

We also agree that a national wildlife refuge should be established at Utah Lake, for a number of reasons with which the Committee is familiar. Project features authorized for construction and those features deauthorized should be clearly delineated so that there is no confusion about what the Congress intends over time.

Finally, Mr. Chairman, I would like to echo my colleagues' remarks about the management of Glen Canyon dam, which is not directly related to the CUP, but is of some considerable importance to us as a general matter. And we believe that the bill generated by this Subcommittee should consider seriously simply de-authorizing obsolete and unbuilt CRSP participating projects further to clear the air.

Mr. Chairman, thank you very much for the opportunity to testify.

[The prepared statement of Mr. Greenwalt follows:]

Working for the Nature of Tomorrow.

NATIONAL WILDLIFE FEDERATION

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Statement of
Lynn A. Greenwalt
Vice President -- Resources Conservation
National Wildlife Federation

Before the Subcommittee on Water & Power
Committee on Energy & Natural Resources
United States Senate
regarding

S. 1737
and other proposals to amend the
Colorado River Storage Project Act

June 9, 1988

Mr. Chairman and members of the subcommittee, my name is Lynn A. Greenwalt. I am Vice President for Resources Conservation of the National Wildlife Federation. The Federation, with affiliates in 51 states and territories nationwide and some 5.1 million members and supporters, is the nation's largest citizen conservation organization. The Federation has a longstanding interest in the Federal water resources development program, and has worked with this subcommittee on several occasions to improve the projects and programs administered by the Bureau of Reclamation. We greatly appreciate the opportunity to testify once again here today.

Mr. Chairman, in our view, the legislation now before the subcommittee is the most important bill pertaining to the Upper Colorado River since the passage of the original Colorado River Storage Project Act in 1956. The bill carries important implications for the entire Colorado Basin as well. The choices facing this Congress will directly impact the quality and quantity of some of the most highly prized resources in the Western states. To a considerable degree, the problems now confronting the Upper Basin are the result of a lack of effective oversight of Bureau activities in decades past. We are grateful to you, Mr. Chairman, for reversing that course.

We would also like to thank Congressman Owens from Utah for his unprecedented invitation to the conservationists, sportsmen, and environmentalists in Utah and around the country to participate in this process. The Utah Wildlife Federation recently recognized Representative Owens as the "Conservation Legislator of the Year" for his work thus far on the Central Utah Project (C.U.P.). This is surely a well-earned honor to which those of us at NWF add our hearty concurrence.

The House Committee on Interior and Insular Affairs appears to be making steady progress toward producing an acceptable bill -- perhaps a landmark bill. The draft bill released earlier this week by Senator Garn, however, has some major deficiencies and, in our view, requires substantial revision.

The planning and construction of the Central Utah Project has been mismanaged for years.

As a result of design changes, construction mismanagement, and the reprogramming of appropriated funds to other projects and activities, the cost of the Bonneville Unit of the Central Utah Project has become truly staggering. By way of comparison, $4 billion to be spent on the Central Arizona Project (C.A.P.) will deliver about 1.5 million acre-feet of water per year. However, the $2 billion that the Bureau proposes to spend on the Bonneville Unit would develop about 275 thousand acre-feet per year. Relatively speaking, the project is about 3 times as expensive as the C.A.P.

These escalating costs have not gone unnoticed by the press and public in Utah. In response, the Bureau has repeatedly manipulated calculations of repayment responsibility in order to sustain its construction program from one year to the next and to postpone the searching reexamination of the project that is now underway in Utah and in this subcommittee. The Bureau sought to misapply the terms of the Water Supply Act to shield ratepayers in Utah at the expense of taxpayers nationwide. The Bureau's actions have been misleading and unlawful. These are not our charges. These are the findings of the Interior Department's own Inspector General ("Review of the Colorado River Storage Project and Related Individual Participating Projects," Office of the Inspector General, U.S. Department of the Interior, September, 1980) and the General Accounting Office ("Bureau of Reclamation's Bonneville Unit: Future Repayment Arrangements," U.S. General Accounting Office, RCED-86-

103, March, 1986. See also GAO Letter Report B-217826, 1985.). Congress acted to correct some of these abuses in 1986.

The same techniques for flim-flamming the taxpayers have also been trained on the fish and wildlife features of the project. Instead of real measures for the protection of fish and wildlife, the Bureau offers distorted allocations of costs to fish and wildlife -- costs of principal water supply facilities that would otherwise be reimbursable from water and power users. At present, with more than $800 million sunk into the project, expenditures for real fish and wildlife facilities have amounted to roughly $10 million.

It is ironic indeed that the Bureau's handling of this project has simultaneously shortchanged both the citizens of Utah and the citizens of the rest of the U.S. And while the natural environment has suffered unmitigated losses, the project's benefits are proving so costly to obtain that whole sectors of Utah's economy may be priced out of the market for C.U.P. water.

The Bonneville Unit of the Central Utah Project should be modified to respond to contemporary needs and values.

In 1956, when Congress authorized construction of the Central Utah Project, a gallon of gas cost about 26.9 cents. America has changed in many fundamental ways during these last three decades. We believe that new legislation for the C.U.P. and the Colorado River Storage Project (CRSP) should be guided by the realities of today, rather than by conditions long past. We recommend four closely related principles to guide the subcommittee's deliberations over this complex project:

1. The project must be built and operated in a way that is more sensitive to environmental values and recreational use;

2. Completion of the project should be linked to greatly improved and coordinated management of water resources along the Wasatch Front;

3. The use of water and power developed by the project should be compatible with the protection and management of the resources of the Colorado River Basin; and,

4. The proposal must respond to Federal budgetary realities.

With these principles in mind, Mr. Chairman, we intend to support the enactment of legislation to increase the cost ceiling for the CRSP -- this year, next year, or whenever Congress is prepared to engage the important issues facing the management of the Upper Colorado Basin that have heretofore gone unaddressed. Although some are urging hasty action upon the subcommittee, there is, in our view, no need to rush an inadequate bill toward enactment, and no evidence that a deliberative process will work any material hardship.

Proposals made by Representative Owens and Senator Garn constitute major improvements in the Central Utah Project.

Since the introduction of S. 1737 last fall, the Utah Congressional Delegation has agreed on a number of points that have been fashioned into draft legislative form by Representative Owens and Senator Garn. Some of these concepts apparently remain controversial. We are pleased to <u>support</u> the following measures, and believe that without them, there is little to justify the commitment of any further Federal funds to the Bonneville Unit of the C.U.P.

1. *Honoring and strengthening the In Stream Flow Agreement of 1980.* One of the most serious environmental impacts resulting from the construction and operation of the Bonneville Unit is the de-watering of streams and the loss of high quality fish habitat. To date, the Bureau of Reclamation's casual attitude toward compliance with this agreement left its achievement in serious doubt. The Bureau's costly plan to achieve just half of the flow objective -- recirculating the same small quantity of water for fish by pumping it uphill over and over again -- was straight out of Rube Goldberg. The new requirements will limit transbasin diversions in order to sustain at least half of the adult trout habitat in the Strawberry River Basin. This is hardly ideal, but is a major improvement nonetheless.

We recommend that the maintenance of instream flows should be placed on a priority comparable to municipal water deliveries, as is the intent of Rep. Owens. Language in the Garn draft bill that would have irrigation share in this priority would substantially dilute the value and effectiveness of the 1980 Agreement.

2. *Improved fish and wildlife mitigation and enhancement features.* With an outpouring of public support and enthusiasm, the Bureau's distorted notion of recreation and fish and wildlife features has been

replaced by a catalogue of meaningful plans and projects that will benefit the natural environment. It is worth noting that these newly identified measures will cost no more than the discredited proposals of the Bureau that they are replacing.

3. *Timely mitigation of damages to fish and wildlife habitat.* In recognition of the failure of the Bureau to assign any priority to the mitigation of fish and wildlife losses resulting from the C.U.P., the draft bill carries a requirement for the appropriation of funds concurrent with the funding of other project construction. This policy has been mandated repeatedly by Congress in recent years for other Federal water resources projects, with the added requirement that mitigation activities be *proportionate* with construction activities as well. Together, these requirements will ensure that promises for fish and wildlife protection are not broken due to bureaucratic indifference or budgetary curtailment.

4. *Non-Federal financing requirements for new hydroelectric power and irrigation development.* Non-Federal cost-sharing for water resource development projects is now the law of the land. Its benefits in focusing local priorities, stretching limited Federal dollars, and curtailing waste are now well recognized. The Bureau's resistance to new cost-sharing requirements is also well-known. Thus we are especially pleased that the Utah Delegation and the Central Utah Water Conservancy District (CUWCD) have agreed to require cost-sharing for new hydropower and irrigation features. We will strenuously object to any efforts to have the Federal government bankroll speculative development of natural resources or otherwise insulate investment decisions from the test of the marketplace.

The Garn bill should be improved by remedying key weaknesses and adding important new initiatives for better resource management.

A. Improvements needed regarding the Central Utah Project:

1. *Water conservation and coordinated operation of the numerous water systems of the Wasatch Front should be developed to the state of the art.* The Federal largesse of the $2 billion Bonneville Unit is being spread across a Balkanized group of municipalities and water systems. Congressional action necessary to complete the C.U.P.

provides a unique opportunity to focus the attention and resources of local officials and the general public on the great potential for efficiency improvements. All aspects of water conservation and demand management should be considered. The current draft of legislative language for water conservation should be substantially reworked.

Before the Federal government committed to the completion of the Central Arizona Project, the state of Arizona was pressed to modernize its state water management practices. The state complied, and today owes as much of the security of its future water supplies to the action it took itself as it does to the completion of the C.A.P. Today, Utah is in a similar position. Unless steps are taken soon to manage demand, the M & I deliveries of the Bonneville Unit will contribute little to the long-term welfare of the state.

On behalf of NWF, Representative Owens submitted a list of questions pertaining to water management practices and system characteristics to the CUWCD in March. Once the answers are received, we intend to work with the District, the Delegation, and the subcommittee on a set of recommendations for legislative action.

2. *C.U.P. Fish and Wildlife Commission and Fund, as proposed by Rep. Owens, is a real breakthrough in resource management that should be included in any Senate bill.* For decades, sportsmen and other conservation-minded citizens have lamented the unmitigated damage done to the trout streams, wetlands, riparian corridors, and big game winter range by water and power development projects and related infrastructure. Under this proposal, something can finally be done about it. Those who have been enjoying the benefits of the Federal investment in hydroelectric power would pay a modest surcharge to yield $15 million per year for various environmental restoration and protection measures throughout the Upper Colorado Basin. This commission should be made up of qualified and responsible individuals who can, with expert assistance and minimal overhead, identify critical needs and act promptly. The commission's program will not substitute for existing Federal, state, and local environmental programs, but rather will complement these activities and fill some of the gaps left by budgetary and jurisdictional constraints. $15 million per year can be well spent for this purpose, and the independence of the commission will ensure that fish and wildlife needs are not unduly compromised.

3. *The District's cost-sharing plans should be structured to provide a market test for new development.* One of the benefits derived from

the new trend in non-Federal financing of water resources development is the reduction in Federal outlays. However, another benefit, equally as important, is the weeding out of unsound or premature development proposals that cannot be supported in the marketplace. We believe that water that is so badly needed in the Uintah and Colorado Basins ought not be diverted and committed to demonstrably impractical ventures. Nor should water collected and stored in Federal project facilities be exempt from requirements that make the Reclamation program more rational, simply by virtue of its delivery to a non-Federally financed distribution system.

The latest financing scheme for the Diamond Fork Power System and the Irrigation and Drainage System have been linked to a requirement for the Western Area Power Administration (WAPA) to cover the District's amortization of its construction borrowing, in return for the hydroelectric power that WAPA will market to its customers. In effect, this arrangement would provide the District with a purchase guarantee from a Federal agency, thus removing the discipline of the marketplace from the District's borrowing and construction. Such an arrangement would create an unfettered spending machine that could chew up financial as well as natural resources in great quantity.

We urge that the following points be included in the bill:

(a) WAPA should have the authority or the option to purchase power from the District, rather than the nondiscretionary obligation to do so;

(b) Before the initiation of construction on major conveyance works, distribution systems, and drainage facilities for any irrigation service area, landowners in the area should be presented with current projections of water delivery charges and related on-farm costs, and vote affirmatively to accept project water. This is similar to a provision contained in the Garrison Diversion Reformulation Act;

(c) Any non-Federally financed irrigation facilities intended to receive project water should remain subject to Federal environmental statutes, the Reclamation Reform Act, and measures to coordinate Federal agricultural and water programs, such as a surcharge on water deliveries for the production of surplus crops.

4. *Power generation at the Diamond Fork hydroelectric plant should be incidental to municipal, industrial, and irrigation water deliveries. Diversion of water out of the Colorado Basin solely for hydropower should be expressly prohibited.* Project water that is delivered for irrigation or municipal and industrial purposes and is used to generate power performs double duty. If water is used only to

generate power, a large portion of its benefits will be wasted. Water in excess of these beneficial uses should not be brought into the enclosed Salt Lake Basin. Rising levels of Great Salt Lake have caused extensive damage during the past five years. The State has spent nearly $80 million to lower lake levels by less than a foot.

Moreover, water used solely for power generation at Diamond Fork makes little sense from a regional energy perspective. Left undiverted, this water will generate nearly as much power at six existing hydropower plants on the Colorado River, including Hoover and Glen Canyon. The total hydraulic height of the six dams is about 1400 feet, and over 300 feet of head at Soldier Creek and Starvation Dams is potentially developable. This compares with 1540 feet of head claimed for Diamond Fork.

5. *A national wildlife refuge should be established at Utah Lake.* In one of the driest states in the country, wetland habitat is hard to come by, and what exists is severely threatened. Rising lake levels of the Great Salt Lake have jeopardized or destroyed several waterfowl management areas, a substantial portion of the few protected wetland habitats in the state. The Utah Lake wetlands are also an important part of the Pacific Flyway, providing critical resting areas for migrating waterfowl. However, these valuable wetlands remain unprotected and vulnerable to uncontrolled development. Protecting Utah Lake wetlands will greatly benefit the state's natural resources, and in so doing will also benefit the entire C.U.P. system.

If a wildlife refuge is established at Utah Lake, the managing agency could buy water rights to guarantee lake levels for wetland habitat. The Central Utah Water Conservancy District intends to spend approximately $18,000,000 to purchase water rights in Utah Lake in order to ensure good water quality. Both the District and the managing agency would have a mutual interest in obtaining water rights, which could be paid for by the managing agency, thus reducing the cost of the C.U.P.

A wildlife refuge at Utah Lake would be compatible with local interests. In addition to reducing the financial costs of the project, the refuge would provide increased tourism and recreational opportunities. In the arid Great Basin of Nevada and Utah, wetland habitat, no matter how small, is critical to local and migratory waterfowl and other species. Preserving and protecting this habitat by establishing a Utah Lake wildlife refuge would be an important step in enhancing the management of waterfowl in the western United States.

6. *Project features authorized for construction and those features deauthorized should be clearly delineated.* Over the years, the Bureau's exercise of administrative discretion to modify the project has made effective citizen participation in the planning process most difficult. Congress should speak with precision about which features of what dimensions are in or out of the modified plan for the Bonneville Unit. Elements such as the diking of Utah Lake should not be subject to reactivation by bureaucratic whim.

7. *The General Accounting Office should review the interim and final allocation of costs of the Bonneville Unit among project purposes.* The Bureau of Reclamation's annual determination of the allocation of joint costs, costs of facilities which serve more than one purpose, has changed dramatically each year for the Bonneville Unit. For example, the costs assigned to the fish and wildlife purpose increase from $170 million in the FY 1987 project data sheet to $346 million in the FY 1988 project data sheet. The Federation has found it difficult to evaluate the cost allocations because the Bureau has not disclosed fully the methods and assumptions it uses to apportion costs among purposes of the project.

Consistent and accurate cost allocation is necessary because:

(a) The Bonneville Unit is a multi-purpose project;

(b) non-Federal participants for each purpose of the project are not the same persons or groups;

(c) non-Federal participants share costs according to purpose; and.

(d) Federal pricing and repayment polices vary among purposes.

The Bureau has a record of apportioning relatively more of joint costs to purposes which require little or no cost-sharing by non-Federal entities and relatively less to purposes which require substantial cost sharing.

The General Accounting Office is an impartial observer that has knowledge of the Bonneville Unit garnered during the preparation of previous reports. The Federation believes that a GAO review will result in fair and equitable apportionment of the costs of the project to each purpose and to each project participant.

8. *Any proposed settlement of claims of the Strawberry Water Users should receive careful scrutiny.* In an effort to improve the management and restore public access to lands controlled by the Strawberry Water Users Association, a settlement has been recently reached which many have found to be overly generous. The committee should pay particular attention to statutory language

which seeks to protect unadjudicated claims to hydropower development rights.

B. Improvements needed regarding the Colorado River Storage Project:

1. *Modifications need to be made in the management of flows at Glen Canyon Dam in order to safeguard the natural integrity and recreational values of Grand Canyon National Park downstream.* The Final Report of the Department of the Interior's *Glen Canyon Environmental Studies* determined that the current operation of Glen Canyon Dam has substantial adverse effects on downstream environmental and recreational resources. Large releases averaging one in every four years cause extensive damage to beaches and riparian habitat, and daily flows can fluctuate by up to 13 feet or more due to peak power generation. Fluctuating flows negatively impact Colorado River fisheries, stranding trout on their spawning beds and causing instant mortality to eggs and young. The endangered humpback chub, native to the Colorado River, has been severely affected by low water temperatures, fluctuations in flow, and low flows from Glen Canyon. The Colorado River below Glen Canyon dam is the heritage of all Americans, and unless current dam operations are modified by statutory criteria for minimum flows, maximum flows, and daily fluctuations, these resources will continue to be degraded. Congress should move promptly to set interim operating criteria for Glen Canyon Dam, and direct that studies be undertaken promptly to form the basis for a decision on long term operating criteria that will protect Grand Canyon National Park.

2. *Deauthorize obsolete and unbuilt CRSP participating projects.* The Upper Colorado Basin is strewn with plans for impractical water projects that have never been built. Some were authorized in 1956 along with the Bonneville Unit of the C.U.P. Others were added to the CRSP as late as 1968. From time to time, interest is renewed, a public outcry is heard, and project plans go back on the shelf. It is time for Congress to take such projects off the books, to allow the states to make their water management and allocation decisions more realistically and to remove the threat, however remote, to the affected river resources of the Upper Basin. At least the following projects, and their proportionate share of the spending authority contained in their original authorization, should be deauthorized at this time: La Barge, Wyoming (1956); Savery-Pot Hook, Colorado/Wyoming (1964); Fruitland Mesa, Colorado (1964); West

Divide, Colorado (1968); and San Miguel, Colorado (1968). If built, these projects would burden the Colorado Basin with over 110,000 acre-feet of depletive use of Colorado River water.

Thank you, Mr. Chairman, for the opportunity to present these views. As this legislation evolves, new issues and questions will undoubtedly emerge from the detailed consideration of legislative language. We look forward to working with this subcommittee to produce the best possible mix of reform and realism in this important endeavor.

Senator BRADLEY. Thank you.
Mr. Conrad.

STATEMENT OF DAVID R. CONRAD, WATER RESOURCES SPECIALIST, FRIENDS OF THE EARTH

Mr. CONRAD. Thank you, Mr. Chairman. My name is David Conrad. I am a water resources specialist with Friends of the Earth, a national conservation organization. I live in Washington, DC, and appreciate the opportunity to present Friends of the Earth's views.

I believe I can summarize very quickly our views of Senator Garn's bill, and I wanted to talk to two issues briefly right after that.

Generally, Mr. Chairman, our views of Senator Garn's draft are as follows. Among the positive aspects of the draft are elimination of direct funding of the irrigation and drainage and hydropower features of the Bonneville unit, which obviously will cut direct costs to the Federal Government without increasing costs over the Bureau's previous estimates.

The bill for the most part adopts the specific project studies, in-stream flow requirements and others that have been identified to improve the CUP fish and wildlife program, and would do that on a concurrent basis.

And also, as was mentioned, the bill would defund several of the ludicrous or uneconomic project features from the project's plans.

We are pleased to hear, although we have not yet reviewed it, that Senator Garn is planning to include a preservation program for the Utah Lake national wildlife area in the south end of the lake.

On the down side, however, for the bill, although we understand that Senator Garn has now agreed to establish a fish and wildlife commission, we believe the fish and wildlife fund is essential. I think Congressman Owens laid out that case very well and we stand behind him on that, and we hope that the Committee will give——

Senator BRADLEY. On the funding question, should it be funded by power users or should it be funded by the Federal Government?

Mr. CONRAD. I believe it should be funded by power users, Senator.

Senator BRADLEY. Thank you.

Mr. CONRAD. The bill also fails to include a study of the CRSP hydropower and storage dams in response to the Glen Canyon dam management and the Grand Canyon Park problems. And we think that this bill should be the appropriate place to provide some kind of interim solution to those problems.

The bill's water conservation program requires further strengthening to be effective. The bill appears to legitimize and codify some questionable power right claims for the Strawberry Water Users Association, at potential considerable expense to the ratepayers and taxpayers.

And the draft fails, that we have seen so far, fails to include a crucial market test to determine before construction begins whether a true demand actually exists for the project's irrigation water.

On that point, the previous panel obviously is concerned about the way this project will impact their programs if they are required to pay market rates for the construction of the irrigation and drainage system and the hydro power system. I think in particular the problem is that the irrigation system is not economical and we are holding onto—I mean, I think this bill is holding onto a feature which ought to be directly addressed as to whether it ought to even be constructed.

And my testimony goes into why we believe that that feature should probably be dropped.

Finally, while the draft bill defers issues on the as yet to be completed supplemental in-stream flow agreement, we are concerned that Senator Garn has argued that the 50 percent portion of the additional supplemental in-stream flow water above the water agreed to in the in-stream flow agreement in 1980, the 44,000 acre-feet, should receive equal priority with agricultural needs, instead of being placed at a higher priority.

We would just point out that, if that is the way the supplemental agreement is worded, this would unacceptably diminish the value of the in-stream flows, because they would be unavailable at the critical times that they are most needed.

[The prepared statement of Mr. Conrad follows:]

TESTIMONY OF DAVID R. CONRAD
WATER RESOURCES SPECIALIST

OF

FRIENDS OF THE EARTH

REGARDING S. 1737 AND RELATED PROPOSALS
TO INCREASE THE AUTHORIZATION CEILING FOR
THE COLORADO RIVER STORAGE PROJECT

BEFORE THE SUBCOMMITTEE ON WATER AND POWER
OF THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

PRESENTED

JUNE 9, 1988

Good morning, Mr. Chairman and members of the Senate Subcommittee on Water and Power. My name is David Conrad. I serve as Water Resources Specialist for the national conservation organization Friends of the Earth. Friends of the Earth has had a long and active involvement with environmental and water resource policy issues concerning the Colorado River Basin. I appreciate the opportunity to present our views on S. 1737 and related legislative proposals to provide additional spending authority to complete the Colorado River Storage Project and the Central Utah Project of the Bureau of Reclamation.

General Views on the Legislation

Mr. Chairman, we regard the legislation to reauthorize remaining construction of the Colorado River Storage Project and the Central Utah Project as quite possibly the most significant legislation affecting the Colorado Basin States as well as the Bonneville Basin that is likely to come before this Committee during this Congress and possibly for years to come.

The Central Utah Project has been under construction for nearly twenty years. Over that time and in many ways, I believe this project, has been dangerously out of control. It was among the projects that the Carter Administration had sought to halt more than ten years ago, but was saved from the chopping block by political wagon circling, not by careful reconsideration and redesign. It has been criticized for huge cost increases, failure to address the modern water needs of the state,

unconscionable administrative costs, almost constant design changes and reallocations among project purposes heaping costs on the U.S. taxpayer, and for near-complete failure to concurrently and adequately protect and mitigate damages to Utah's fish, wildlife and recreational resources that in the meantime have become an important mainstay of Utah's economy.

Inherent in the scheme to complete the Bonneville Unit of C-U-P is a massive interbasin transfer of water out of the Colorado River Basin. We know from past experience that such redesigns of nature will have major, ongoing impacts on riparian and aquatic systems that can never be completely mitigated. The CRSP has already drowned some of West's most spectacular canyons, dewatered streams, raised salinity levels, is dameging a national park and has forever altered the natural Colorado River system. Thus, this legislation to complete the C-U-P is an extremely serious matter with permanent ramifications for Utah's and the Upper Colorado River Basin's environment.

Mr. Chairman, this legislation should be viewed as the critical opportunity to bring a degree of rationality to the totally irrational situation we now inhert. A deliberate effort to that end should be made. The Utah delegation has moved a considerable distance since the introduction of S. 1737 towards confronting some of CUP's worst failings. In particular, Representative Wayne Owens and Utah conservation and sportsmans' organizations have made an extraordinary effort in attempting in a very short time to identify fish, wildlife and recreational needs resulting from C-U-P's impacts and committing them to bill

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language. If the reauthorization comes together and additional federal funding to complete the project is authorized, these efforts will be a major reason.

However, Mr. Chairman, we believe that certain elements of Senator Garn's legislative draft which we received Tuesday afternoon from Committee staff for review for these hearings represent a major step backwards from the legislation that Representative Owens has circulated and without major improvements we would have to oppose the bill as it inadequately addresses key environmental concerns.

Generally, Mr. Chairman, our views of Senator Garn's draft legislation center on the following issues:

Among positive aspects of the draft are the elimination of direct federal funding for the irrigation and drainage and hydropower features of the Bonneville Unit, which cut the direct costs to the federal government. Without increasing costs over the Bureau's previous estimates, the bill for the most part adopts the specific projects, studies and instream flow requirements that have been identified to improve the current C-U-P fish, wildlife and recreation mitigation program and would schedule their implementation concurrently with construction; and finally, the bill would defund several ludicrous or uneconomical project features from the Bureau's plans.

However, Mr. Chairman, Senator Garn's draft contains a host of weaknesses that, we believe, if left in present form, threaten the likelihood that an acceptable reauthorization bill will be enacted. Generally, the weaknesses are as follows:

The bill fails to include establishment of an essential

Central Utah Project Fish and Wildlife Commission and Fish and Wildlife Fund, as proposed in Representative Owen's bill, to carryout necessary fish, wildlife and recreation mitigation during and after completion of C-U-P construction. The bill fails to include establishment of a Utah Lake National Wildlife Refuge that would benefit a critically important wetland and migratory bird area while assisting in stabilizing lake levels, protecting water quality and possibly reducing CUP project costs. The bill also fails to include a needed study of improved environmental management of CRSP hydropower and storage dams, and fails to establish interim flow protective measures needed to respond to problems of Glen Canyon Dam management and its impacts on Grand Canyon National Park. The bill's water conservation program requires further strengthening to be effective. The bill appears to legitimize and codify certain questionable power right claims of the Strawberry Water Users Association at potentially considerable cost to the ratepayers or taxpayers. The draft that we have seen fails to include a crucial market test to determine, before construction begins, whether a true demand actually exists for the project's irrigation water. And finally, while the draft bill defers such issues to an as-yet-to-be completed supplemental instream-flow-agreement, we are concerned that Senator Garn has argued that the 50 percent portion of the 10,000 acre feet of supplemental instream flow-water above the 44,400 acre feet authorized in the bill should receive equal priority with agricultural needs instead of being placed at a higher priority. This would unacceptably diminish instream flows

at the critical times they are most needed.

Mr. Chairman, while this is a complex subject for legislation, I would like to highlight some of our specific concerns and recommendations.

Specific Concerns and Recommendations

Establishment of a Central Utah Fish and Wildlife Commission

Mr. Chairman, a basic flaw in Senator Garn's draft is the failure to establish a reliable, ongoing program of environmental mitigation and enhancement to compensate for the major and continuing impacts that will flow from the massive water developments involved. What is needed is a high-level body that can be counted on to take its mitigation charge seriously, that will be able to plan and execute mitigation projects in the long term in a deliberate manner, and that can be counted on to have the funding necessary to accomplish the plans. It also seems appropriate that the funding for such activities should be derived from revenues generated by the Colorado River Storage Project, which is the primary reason much of the mitigation is necessary in the first place. Only a body such as the Fish and Wildlife Commission that Representative Owens has proposed with guaranteed annual post-construction funding is likely to meet these criteria, whereas in Senator Garn's draft these functions have been left largely to the Central Utah Water Conservancy District or the Secretary of Interior and the vagaries of legislative funding.

Mr. Chairman, ample precedent exists for this kind of approach and funding mechanism for such activities. In 1980, as

part of the Northwest Power Planning Act, Congress established the Northwest Power Planning Council and gave to it the large and on-going task of planning for the protection, mitigation and enhancement of fish and wildlife in the Columbia Basin which had suffered enormously through the federal water and hydropower development in the four state region. Funding for carrying out the Council's Fish and Wildlife Program comes from BPA revenues from sale of federally marketed low cost power---with this year's budget set at $37 million and projected out-year budgets in the range of $40 to $50 million and total annual spending, including water budget and foregone power benefits from fish "spills", averaging $100 million. (see attached 1987 Summary from Pacific Northwest Utilities Conference Committee).

We believe that annual post-construction fish and wildlife mitigation and environmental needs in the Central Utah Project area will far exceed the $15 million earmarked in the proposed House legislation, which would supplement already strapped natural resource agency budgets, and thus we believe it is fully justified. Examples of on-going projects that will require funding include operations and maintenance for virtually all mitigation lands, artificial wetlands, habitat restoration and enhancement projects, and recreation and fisherman access areas that constitute much of CUP's fish and wildlife mitigation and recreation programs. Others include management and further stabilzation of high mountain lakes, purchase of additional waters for instream flows, plans for mitigating effects of destructive high-level Provo River flows, endangered species problems on the Colorado River, potential warm-water fishery

improvements on Utah Lake, and efforts to restore Strawberry River tributaries with native fish and wildlife populations. The bill and Bureau's fish and wildlife plans call for numerous fish and wildlife studies to identify mitigation alternatives for which additional funding will be required for implementation after construction. This constitutes only a handful of the kinds of projects that are necessary and could be potentially funded by the Commission.

Irrigation and Drainage Features/Hydropower Development

Of all the aspects of the Central Utah Project, the Irrigation and Drainage Features of the Bonneville Unit stand out as having the least justification. In the Salt Lake City hearings of the House Interior Committee, University of Utah Professor Jon R. Miller pointed out that the farmers' ability to repay capital costs of the I & D system was only $1.33 per acre per year or three-one hundreths of one percent after operations and maintenance costs are collected. The projected federal subsidy per acre approaches $4,000. Most of the acreage to be served would receive supplemental irrigation water, mostly to increase yield of already subsidized surplus grain crops or to extend from two to three the number of alfalfa hay cuttings. The areas involved are generally high elevation areas with short growing seasons. Such high cost federal investments make neither economic nor environmental sense.

While the Utah delegation now seeks funding through non-federal borrowing and CRSP fund repayment, the legislation should at least require one or a series of market tests, including the

requirement that 75% or more of project water be contracted for sale in advance of construction to identify the strength of demand for the water and its delivery system. A higher percentage should apply to each service area as well.

If the I & D system is built with non-federal funds, it should remain subject to the federal laws regarding environmental mitigation and reclamation law repayment requirements, a rigorous water conservation program should be implemented to limit water waste, and it should be made clear in the statute that water releases through the Diamond Fork Power System are to be strictly limited to water for irrigation and municipal and industrial uses and never solely for hydropower generation. If the pursuit of hydropower revenues becomes the driving force for interbasin water diversion, the already severe environmental impacts of C-U-P would be seriously worsened.

Study of Need For CRSP Hydropower Project Management Improvements

From the results of the studies thus far by the National Academy of Sciences and the Department of Interior, there is little doubt that significant adverse impacts are resulting in Grand Canyon National Park from management of the CRSP hydropower dams, particularly Glen Canyon Dam. The situation calls for whatever studies would be necessary to come into compliance with NEPA. In the meantime, it would appear that reasonable flow levels in an interim flow regime to reduce on-going adverse impact levels can and should be adopted while such studies proceed, and there can be little doubt that congressional action will be necessary to do so. We believe that because of the

national importance of these issues regarding CRSP project management, the CRSP authorization legislation is the appropriate forum for establishing at least an interim solution and further roadmap to resolving these problems. We hope the Committee will give proper consideration to this situation and make its resolution a priority for this legislation.

Establishment of Utah Lake National Wildlife Refuge

The draft legislation fails to include establishment of a national wildlife refuge at the southern end of Utah Lake, although strong local and national conservation organization support exists for such designation. The area is 11th on the U.S. Fish and Wildlife Service's priority list for protection and acquistion for its high value freshwater wetland and marshland values and as migratory bird staging habitat in the arid Bonneville Basin. What is particularly significant is that the existing need to stabilize Utah Lake levels to help maintain acceptable salinity levels together with the similar need to stabilize lake levels to preserve wildlife habitat should make this proposal doubly attractive to both water users and wildlife advocates. It is our hope that as this legislation progresses, it will be possible to find common ground and establish the protection this area needs and deserves.

Water Conservation Provisions

Section 5 of the draft legislation institutes a requirement that the Central Utah Water Conservancy District develop a water conservation program for each system which receives C-U-P water. We believe that development and implementation of such plans should be an essential part of any justification to spend further

federal funds on the C-U-P. As currently structured, the likelihood that the plans will be vigorously pursued by the recipients of project water is limited. The bill should be strengthened along the lines of other recent Bureau legislation to encourage cost-effective conservation and efficient use of federally delivered water, thus saving customers and the environment from the necessity of developing new more costly supplies, such as those in Utah's Bear River basin.

Conclusion

Mr. Chairman, this legislation is of extreme importance to the future environmental health of the Colorado and Utah Basins. We are concerned that the draft substitute for S. 1731 that we have reviewed is considerably weaker than the companion House legislation and in its present form does not adequately address many of the issues we believe are most important. We recognize that the bills are evolving and look forward to working with the Committee and Senator Garn as the evolution continues. Thank you for the opportunity to present our views and I would be happy to respond to any questions that you may have.

Attachment

PROGRAM COSTS

The Northwest ratepayers, through BPA, are the primary funding source for fish and wildlife activities in the Northwest. Funds are obtained through power sales and transmission revenues.

BPA provides funding for fish and wildlife in three ways. First, BPA's Division of Fish and Wildlife's annual expenditures are funded through revenues and borrowing. BPA has the authority to borrow from the U.S. Treasury to finance major capital construction.

Under the Power Act, BPA must borrow to construct facilities with a life greater than 15 years and a cost of $1 million or more. BPA's annual fish and wildlife expenditures have increased significantly since the adoption of the Council's Program.

The current annual budget is about $37 million, while rough estimates of annual expenditures beyond 1989 range between $40 to $50 million.

Second, BPA repays the U.S. Treasury for federal investments (at present more than $500 million) in fish and wildlife facilities and activities at federal hydro projects, including associated annual operation and maintenance costs incurred by the Corps, the Bureau of Reclamation, and the U.S. Fish & Wildlife Service.

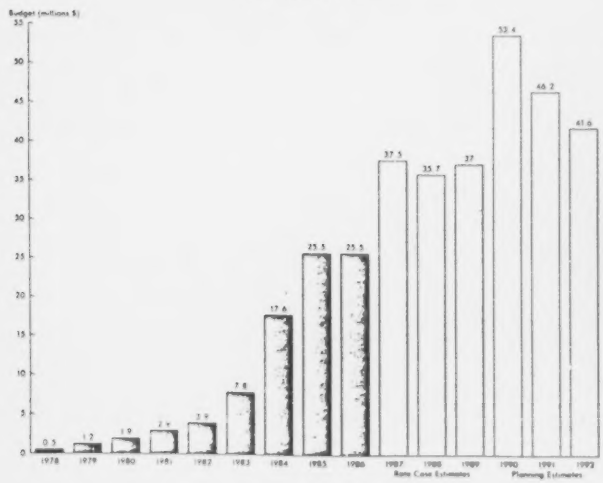
Annual repayment, interest, and O&M costs on current investments range between $35 and $50 million.

Finally, BPA loses potential revenues due to modifications in operation of the federal hydro system, such as the water budget and spill, to assist fish passage. While the costs of water budget and spill vary from year-to-year, combined estimates of these costs are about $50 million annually.

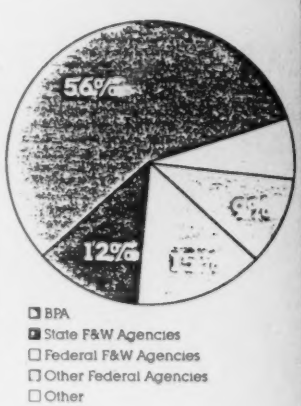
Although BPA provides the majority (56 percent in 1985) of the funding for regional fish and wildlife activities, other federal agencies and state agencies also contribute. In addition, non-federal project operators pay for fish and wildlife activities associated with their projects.

Northwest ratepayers, through BPA, are the primary funding source of fish and wildlife activities in the Northwest.

BPA DIVISION OF FISH & WILDLIFE BUDGET
FY 1978-1992



Source of Funds for Regional Fish & Wildlife Activities (1985)



Source: "PNUCC, Dams & Fish, A Primer" (1987)

Senator BRADLEY. Thank you very much.
Mr. Pembleton.

STATEMENT OF EDWARD F. PEMBLETON, DIRECTOR OF WATER RESOURCES PROGRAM, NATIONAL AUDUBON SOCIETY

Mr. PEMBLETON. Senator Bradley, thank you for the opportunity to be here today.

I am Ed Pembleton, director of the Water Resources Program for the National Audubon Society. I have submitted a written statement for the record.

Senator BRADLEY. Your whole statement will be in the record.

Mr. PEMBLETON. Thanks for extending the record for 30 days. With this rolling target, it has been somewhat complicated to try to figure out what to say here today. I will try to summarize the major characteristics of what I wrote and prepared.

I think we all agree that the project is, at least the CUP and the Bonneville unit of the project, has been built. I mean, the storage project features are in place. But most environmental damage remains unmitigated, and it is very questionable how the allocation of funds have gone, obviously, in this whole thing.

And everyone agrees it is a new day and that we need to look at some of the mitigation problems that remain. We have considerable reservations regarding further withdrawals of water from the Colorado River Basin and considerable numbers of questions about the need and economics for further power, irrigation, and drainage development involved in the CUP project.

At this time, however, until some of those questions become a little more clear, I would like to just add that it is obvious that reducing and/or curtailing a lot of the trans-basin diversions would self-evidently take care of a lot of the problems with mitigation and those set of problems that we face and reduce a lot of impacts.

Senator BRADLEY. What?

Mr. PEMBLETON. That curtailing the trans-basin diversions would take care of a lot of the questions—the Indian water rights questions, the trans-basin diversions and depletion of streams, a lot of these impacts.

Senator BRADLEY. Are you opposed to the bill?

Mr. PEMBLETON. We are not opposing the bill at this time, no.

What we are saying is that the least amount of water brought over in the trans-basin diversion, the better off we are. And so we do support the in-stream flow agreements.

Senator BRADLEY. So you are saying that the suggestion of an earlier witness about less water, more money—you would like to see less water, more money, flow over the mountains?

Mr. PEMBLETON. That might be a suitable selection, yes. It is always one or the other, time, money, or water, right?

Without going into details on all of those reservations we have at this time, I want to concentrate my remarks on the portion of the draft legislation that can achieve some of the goals of mitigation.

The draft legislation that I was familiar with last night provides for appropriations to be made in appropriate—excuse me—and appropriated in an appropriate and concurrent manner for mitigation

and construction. We think that is appropriate, necessary, and acceptable.

We are pleased to see that the latest draft bill received from Senator Garn, that he also includes a provision for the Central Utah project Fish and Wildlife Commission. We think that Commission—and want to support that Commission concept—is innovative, and I think it provides for a direct watchdog, if you will, for getting the mitigation taken care of.

Just as we have a district intent on building the main features of the project, I think we need to have a set of Utah citizens to manage the mitigation business. Obviously, the Bureau has not been able to do that.

The environmental impacts caused by this project are still not all identified. We may not be able to identify them all. Neither could the creators of the project. But certainly, I do not think anyone believes that it will cease with the end of construction.

Consequently, it seems logical and if the commission is created, that the commission continue to take care of those mitigation problems that last longer than the construction period.

Likewise, I think it should be provided in this legislation that the funds for necessary management continue to take care of the mitigation problems. Obviously, providing those funds is one of the most controversial issues brought up today, I guess.

I have to join David and say that I think that it is appropriate for public power to shoulder some of the burden of those costs. They have burdened the costs for irrigation and I think maybe the mitigation could be a legitimate requirement.

But I think that the real crux of the problem is making sure that those mitigation needs are met and funded and managed. If there are other creative solutions that none of us have yet come to to provide that ongoing mitigation once construction is stopped—I mean, this is a major project we are talking about here—then we are open to listening to those.

[The prepared statement of Mr. Pembleton follows:]

National Audubon Society

NATIONAL CAPITAL OFFICE 801 PENNSYLVANIA AVENUE, S.E. WASHINGTON, D.C. 20003 (202) 547-9009

STATEMENT OF

EDWARD F. PEMBLETON
DIRECTOR OF WATER RESOURCES PROGRAM
NATIONAL AUDUBON SOCIETY

PRESENTED TO

SUBCOMMITTEE ON WATER AND POWER
ENERGY AND NATURAL RESOURCES COMMITTEE

CONCERNING

INCREASED AUTHORIZATION CEILING
AND OTHER PROPOSED AMENDMENTS TO THE
COLORADO RIVER STORAGE PROJECT ACT

JUNE 9,1988

Recycled Paper

Chairman Bradley, members of the subcommittee, I am Ed Pembleton, Director of the Water Resources Program for the National Audubon Society. On behalf of our half-million members nationwide and our 2500 members in Utah, we are pleased to have this opportunity to present the following comments on the proposed legislation for increased authorization and amendments to the Colorado River Storage Project (CRSP) Act.

This legislation presents an important opportunity to review the CRSP Act and develop a comprehensive plan that adequately addresses many unresolved issues, particularly those related to the Central Utah Project (CUP). Various draft bills and proposals provided by Representative Owens and Senator Garn have provided inital direction for major improvements in the Central Utah Project. We look forward to continued progress and to working with Congress to develop an adequate bill.

Given the vast expenditures already provided to CUP, we find that the project has built many of the water storage and delivery features, but much of the environmental damage remains unmitigated. At the same time, the citizens of Utah and the country at large have come to realize the importance of protecting the environmental benefits derived from our valuable water resources. The original vision of capturing water from the Unitah Mountains and diverting it to the Wasatch Front did not (perhaps could not) forsee the cumulative impacts on the Colorado River nor the envionmental consequences and financial forces that we face today.

We have considerable reservations regarding further withdrawls of water from the Colorado River Basin, and question the need for and economics of further power, irrigation and drainage development involved in the CUP project. However, we recognize this legislation as an opportunity to also correct, mitigate and otherwise lessen the present and future environmental impacts caused by this development. At this time we will concentrate our remarks on the portions of the draft legislation that can achieve these goals that may otherwise go unanswered.

After three decades and the expenditure of nearly $1.2 billion on CUP, the progress towards providing the necessary recreation, mitigation, protection and enhancement of habitat and wildlife has been woefully neglected. Construction of project features has clearly taken priority over these parts of the project. The Bureau has not done its job and it is time to correct the situation.

The draft legislation provides for appropriations to be made in a manner which provides funds for mitigation of fish and wildlife values concurrent with construction funding. This provision is essential.

We are pleased to see that the latest draft bill received from Senator Garn also includes provisions for establishing a Central Utah Project Fish and Wildlife Commission (Commission). Establishing the Commission will insure that funding and implementation of mitigation and enhancement measures can be completed without the interference imposed by conflicting construction and budget priorities. The Bureau of Reclamation has clearly not been capable of managing these conflicts. With a singular dedication of purpose, the Commission can focus on the accomplishing these tasks and not be involved in inter or intra agency differences that often plague these projects. Additionally the Commission could, and should, develop their plans with ample opportunity for public comment and participation, another opportunity that has not been provided by the Bureau.

A Commission composed of Utah residents, holding open meetings, can continue to focus the strong broad public interest in this project, as was recently demonstrated by the Utah Roundtable. This Commission should perhaps be given further direction regarding its purpose, duties and operations. We would encourage that the Commission place special emphasis on protection of instream flows, riparian habitats, wetlands, and habitats critical to endangered and "nongame" wildlife, as well as fish, game species and recreation.

The environmental impacts caused by this project have not all been identified and the impacts will not cease with the completion of construction. It is essential that provisions be made to assure that funds and direction are available to continue the mitigation efforts once construction is finished. The Central Utah Conservancy District will be present to manage the systems that provide the economic benefits of the CUP project. Likewise, it would seem logical for the Commission to continue to be present to manage the continued mitigation effort. Providing the funds necessary for continued mitigation has been a controversial issue. However, the need will exist and this legislation should establish the necessary management and funding mechanisms to accomplish the tasks.

Although the various draft bills vary slightly in detail, and the differences must be resolved, the specific provisions included for improved recreation, habitat, fish and wildlife mitigation, and enhancement features are deserving of inclusion in this legislation. In addition to their environmental and conservation benefits, these measures provide a solid slate of features recognized and strongly supported by a broad coalition of citizens throughout Utah.

The draft legislaton provides for an inventory of wetland species to be conducted. In arid Utah, it is the wetland habitats that are important to support these species, and the inventory should encompass an accounting of wetlands by types that have been destroyed, damaged or altered by the CUP

project. Once these figures are compiled, a plan should be developed that requires mitigation on an acre for acre basis. The draft legislation also authorizes appropriations for rehabilitation of some of the wetland habitats surrounding the Great Salt Lake, and provides for acquisition of wetlands along the Jordan River. We support these efforts, but note that provisions are not included for protecting wetlands around Utah Lake.

The protection of marshes in both Great Salt Lake and Utah Lake is important to providing habitat for migratory waterfowl and other species dependent upon these wetlands. Utah Lake wetlands have become increasingly important habitat for up to 70,000 migratory ducks and nesting habitat for redheads, cinnamon teal and several species of colonial nesting birds. According to the U. S. Fish and Wildlife Service, wetland protection in the Great Basin will prevent the loss of 20-30,000 redhead ducks, which are experiencing the same population declines as other waterfowl.

One of the top priorities recommended by the Utah Wildlife Leadership Coalition was that the proposed Utah Lake National Wildlife Refuge be authorized as part of this bill. Utah Audubon Society expressed its support for this idea at the field hearings and we again encourage the Subcommittee to protect these wetlands and provide for authorization of the refuge.

Establishing a wildlife refuge on Utah Lake would not increase the approriations necessary to complete CUP, and may in fact decrease the funds needed. If authorized as a National Wildlife Refuge, the acquisition costs for land and water rights could be derived from the Migratory Bird Conservation Account, funds provided through the sale of duck stamps, or through the Land and Water Conservation Fund. Water rights necessary for managing the refuge are compatible with the management objectives of the Central Utah Water Conservancy District. Purchase of those rights would have to conform to state law and could be accomplished in a cooperative manner with the District. Refuge boundaries have been designed to avoid conflicts with the Provo Airport by excluding the northern portion of Provo Bay which borders the Airport property.

The Central Utah Project will require major shifts of water out of the Colorado River Basin, leading to depletions of stream flows that cause loss of high quality fisheries and riparian habitats. The draft legislation contains a commitment toward strenthening the In Stream Flow Agreement of 1980, and this represents a great deal of progress. Any thing less would be unacceptable. In some instances, the current draft differs on specific numbers from earlier versions and definition of flows are not always clear. These and other details will obviously need further resolution.

Thank your for this opportunity to submit comments on behalf of the members of the National Audubon Society. The differences and changes between various drafts of this legislation have challenged our ability to respond in detail, but at the same time these changes reflect the continued effort of the Utah delegation to work toward resolving issues. There undoubtedly will be further refinements and changes and we look forward to working with Congress on this bill.

Senator BRADLEY. Mr. Pembleton, thank you very much.

Let me thank the whole panel, and I appreciate it, and your full testimony will be in the record and your views are appreciated.

And I think we need to move on to the next panel. The final panel will consist of: Mr. Ken Holum, president, Public Power Development Corp.; and Tom Donnelly, executive vice president, National Water Resources Association.

Gentlemen, welcome. Please try to limit your comments, if you could. We are—I should say, one of us is 15 minutes late for his appointment.

STATEMENT OF KEN HOLUM, PRESIDENT, PUBLIC POWER DEVELOPMENT CORP.

Mr. HOLUM. Thank you, Mr. Chairman.

I appreciate that you have been very patient and I will set aside my prepared statement, and I trust that that does not mean that I impose myself too much upon your time. Please warn me if I do.

I want to make a couple of personal observations to begin with, if I might. This is not the first time I sat at this table in this room. I have spent many hours here appearing before the Senate Interior Committee and its Subcommittees. I served for eight years as Assistant Secretary for Water and Power Development.

At that time, all of the power marketing agencies in the United States were under my supervision, as well as the Bureau of Reclamation. The personal note: Even in 1968, when I was making my last appearance before this Committee, the acoustics in this room were not very good, and the acoustics have not improved and my hearing has deteriorated.

If you have questions, you may ask them of me.

Senator BRADLEY. Well, that might be a blessing in disguise. [Laughter.]

Mr. HOLUM. I heard your initial comments, however, Mr. Chairman, that this legislation, the substitutes, either the House substitute or the Senate substitute, have to be considered very carefully.

Certainly I agree with you. My testimony relates to S. 1707. I support it and I think that it ought to be adopted. But I think that any substitute legislation deserves and demands very careful consideration by the Congress and by the people that it would affect.

I will tell you why. I can say so from personal experience. The Colorado River Storage Project Act was adopted in 1956. I became Assistant Secretary in 1961. When I became Assistant Secretary, Senator Clinton Anderson from New Mexico sat where you sit now. Wayne Aspinall sat in a similar position in the House.

And they insisted, appropriately I think, that everything I brought before them be consistent with CRSP, whether it was in the Missouri Basin, the Pacific Northwest, or the Southeast. It had to fit into the criteria of the CRSP or Ken Holum had better have a very good reason and a very strong justification for any deviation.

And I learned that lesson, and I think that is what is involved here. Any change in the CRSP formula is a nationwide change that needs very careful consideration.

During that period, too, the Bonneville unit was—the final planning was completed, and it was started for construction in 1966, not 20 years ago, as Senator Garn said, but 22 years ago.

So Ken Holum has supported the Bonneville unit for a long time. That does not mean I know all the details about it today.

I have heard, and maybe I have wondered a couple of times as I sat here this morning, did I make a mistake in starting this unit, as I have heard the misgivings expressed about irrigation.

But I still have my farm roots in South Dakota. I read the Washington Post this morning on page 3, a big warning sign I think that ought to be heard all over the country as drought once more sweeps across the United States. And I want my country to always have a little too much food, rather than not to have enough. I am not as negative as some people are about irrigation.

Now let me talk just very briefly about the Public Power Development Corporation, and I hope my prepared testimony will receive attention and that it will have an opportunity to give you more information.

Senator BRADLEY. Your full testimony will be in the record, certainly.

Mr. HOLUM. Thank you, Mr. Chairman.

PPDC is a comparatively new corporation. We are five individuals. We reacted to the concern and the lack of willingness on the part of the Administration and the Congress to appropriate money for the development of hydroelectric power resources and multipurpose resource development.

And so five of us created the Public Power Development Corp., all of us experienced in resource development. I have agreed to serve as chairman without compensation, and I have carried forward the work of this organization for two years on that basis.

We saw an opportunity, a need, I think, in connection with the Bonneville unit for the development of the hydroelectric power resources at Diamond Fork. So we worked hard for over a year, in very careful consultation with WAPA and the Bureau of Reclamation, developing contracts.

The contracts would provide for construction of the facilities for the Bureau of Reclamation, the operation of those facilities by the Bureau of Reclamation, the power to be marketed by the Western Area Power Administration in accordance with existing law.

Drawing heavily on my background and with good legal assistance, I think we developed three contracts with a government agency that are completely consistent with existing federal policy with respect to multipurpose resource development. And these contracts are developed on a nonprofit basis.

We do not have time to discuss those contracts here this morning and I will not impose on you by doing it. But I do want to tell you that about a year ago, when all of this was completed and the federal agencies were preparing a Federal Register notice to put the world on notice that PPDC was making this offer, the two Cabinet officers received a letter from the entire Utah Congressional delegation bringing a halt to our deliberations.

We stopped. There was nothing I could do about it. If the government would not talk to me, I cannot do anything about it.

All I want to say to this Committee in conclusion is that, if the Government wants to reduce the amount of appropriated funds necessary to complete the Central Utah project and the Bonneville unit, give PPDC a chance to provide non-Federal funding for the power resources, and just be sure that in anything that comes out of the Congress there is a level playing field.

If somebody wants to make a better offer than we made, fine. We are not going to make any profit on it. They can have the business.

But we do want these resources developed on a basis that is consistent with existing federal policy, that is going back to the days when I was taught in this chair: Make it consistent with the CRSP.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Holum follows:]

STATEMENT BY KEN HOLUM
PRESIDENT, PUBLIC POWER DEVELOPMENT CORPORATION
BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

S. 1737

June 9, 1988

Mr. Chairman and Members of the Committee--

As spokesman for the Public Power Development Corporation (PPDC), I appreciate the opportunity to appear before this Committee to present and discuss our offer to provide non-Federal funds for the power features of the Bonneville Unit of the Colorado River Storage Project (CRSP). Because these funds will not be appropriated, I suggest that the Congress provide for the acceptance and expenditure of these funds separate from the appropriations process and the authorized ceiling the Committee is considering.

Permit me to digress for a moment to observe that this is not the first time I have appeared as a witness before Congressional committees of the Senate. I served as Assistant Secretary of the Interior for Water and Power Development from January 21, 1961 to January 20, 1969. In that capacity I appeared before the Interior Commitee and its subcommittees on innumerable occasions.

Further, permit me to observe that the advance planning for the Bonneville Unit of the Central Utah Project was completed and the first construction funds appropriated in 1966. I say this to indicate that Ken Holum has supported the Bonneville Unit over a long period of time. I believe it should be completed and put into service expeditiously. The Congress should increase the appropriation authorization for the CRSP as an important step towards that objective.

Having said that, I wish to make it clear that I am not here to discuss details of the Bonneville Unit and the elements that need to be completed. I am not competent to do so in any event. Much has happened I am sure, since I left the government in January of 1969.

However, I am here to tell this Committee and the Congress that PPDC is prepared to furnish the funds required to build the power features of the Bonneville Unit, assuming that doing so meets appropriate economic and engineering feasibility standards. Although as individuals we support full Federal funding, we have heard and understand the desire of the Executive Branch and the Congress to secure non-Federal participation in multi-purpose water resource projects. We created PPDC as a non-profit corporation in the District of Columbia, to meet that desire.

Over a year ago after discussion sessions with the two involved Federal agencies, we completed preparation of three draft contracts to accomplish the non-Federal funding of the power generating facilities at Diamond Fork, a feature of the Central Utah Project. I submitted the drafts to officials of the Bureau of Reclamation (Reclamation) and the Western Area Power Administration (Western) for review, comment and further negotiations if government representatives found doing so desirable.

When we submitted our proposal to Reclamation and Western, I am reasonably confident that we became the first entity to offer to finance a Federal facility with private money, while leaving title and the responsibility for management with the United States. I have little doubt that we continue to be the only organization willing to do so without seeking any reciprocal financial benefits.

The first contract, the Project Finance Agreement, is a three-way contract, involving Reclamation, Western and PPDC.

The second, the Construction Finance Agreement, is a two-party contract, involving Reclamation and PPDC. It specifies that Reclamation will be responsible for constructing the power features and PPDC will provide funds as they are needed.

The third contract is the Power Marketing and Repayment Agreement. This two-party contract is between Western and PPDC. It stipulates that Western will market the project output in accordance with existing law and it provides for the repayment of PPDC investments in the facilities with CRSP power revenues.

From the beginning we planned to prepare and submit a proposal that is completely consistent with existing Federal policy with respect to multi-purpose water resource development. I am confident that we have achieved that objective.

We propose to have the power facilities designed, built and operated by Reclamation. We will, of course, want an opportunity to review specifications and provide input during construction. We must do so to protect the money we will be providing and to demonstrate management competence.

Similarly and again consistent with existing policy, the power will be marketed by Western as an integrated resource of the CRSP. In return, Western will have to provide PPDC with sufficient funds from CRSP power revenues to repay the PPDC investment as it becomes payable.

There will, of course, be PPDC overhead costs. They will be kept at minimal levels. To be sure that this is done, our draft contracts provide for government review and approval of PPDC's budgets on an annual basis. To be sure that PPDC operates on a non-profit basis, the drafts provide that any funds remaining at the end of one fiscal year will be credited against the following year's PPDC budget.

Designing a program consistent with Federal policy, while injecting non-Federal funds and maintaining non-profit status, proved to be a challenging assignment. I am confident we achieved our objective.

From the beginning we understood that the proposal PPDC submitted to the two government agencies would be made available to the public by way of a Federal Register notice. If other competing proposals emerged, we expected them to be evaluated and compared with ours -- and we expected the one most favorable to the government to be accepted. We assumed, I trust correctly, that any proposal receiving consideration would have to be completely consistent with existing Federal policy with respect to multi-purpose water resource development.

As I noted at the beginning of my statement, I served eight years as Assistant Secretary of the Interior for Water and Power Development and am used to Federal review of matters I undertake. My decisions in that capacity received, and I expected, close Congressional scrutiny. Chairman Anderson and Senator Jackson who served as Chairmen of the Full Committee at that time were competent and fair, but demanding individuals. Senator Kuchel from California, ranking member, scrutinized our activities with great care and spoke frankly, as did other committee members.

The important point is that the Congress established the policy guidelines and then watched carefully to make certain that Executive Branch personnel respected those policies. If the Congress wishes to have non-Federal money finance power features for the Bonneville Unit, the Congress can say so and then expect the Executive Branch agencies to proceed within established policy for multi-purpose water resource development. We have heard suggestions that the Congress designate the agency authorized to provide non-Federal funds. We would not ask the Congress to select PPDC -- and I believe it would be inappropriate for the Congress to do so.

Doing so would in my judgment be comparable to the Congress selecting a construction contractor without a competitive bidding procedure. However, if the Congress desires non-Federal financing of project facilities, as I said earlier, it seems appropriate that the Congress recognize that these funds will not impact the appropriation authorization ceiling.

We understand that other proposals to finance the power features have been or may be submitted to Reclamation. Fine. We ask only that we be permitted to continue our discussions with the involved government agencies. If in the end our proposal is most advantageous to the government, while being consistent with established policy, we would expect it to be accepted.

In that connection, our proposal and draft contracts were submitted to the government agencies over a year ago. The agencies were preparing a Federal Register notice and everything appeared to be moving ahead expeditiously. Suddenly to our surprise we were told that the whole process had been placed on hold. Why? Because the Utah Congressional delegation had written to the two Cabinet officers asking for delay to provide a "later starter," the Central Utah Water Conservancy District, an opportunity to evaluate the situation. I attach a copy of that letter to this statement. If my recall is correct, the District had participated in all of our substantive discussions with government officials.

Later I would hear a spokesman for the District say that the District's proposal would be the same as PPDC's except

for a cost allocation change that would reduce the cost of municipal and industrial (M&I) water by $4.00 per acre-foot. Is that what they will eventually propose? I don't know, but I think the government agencies involved should be alert to this possibility when and if they receive a proposal.

M&I water always has been considered the highest and best use of water and Federal investments always have been completely reimbursable. Good policy that should continue! This is a policy that encourages conservation and helps to reduce the impact of pollution on the nation's rivers and streams. You have heard a great deal these days about the need to use the available water wisely. Certainly this policy with respect to M&I water is a key ingredient.

For the record, PPDC is a non-profit District of Columbia corporation, created by five individuals to provide funding for power facilities at Federal installations when and if Federal money is not available. My associates are all individuals with long-term, intimate involvement with Federal multi-purpose water and power projects.

Stanley Bazant, General Manager of Plains Electric Generation and Transmission Cooperative, is Chairman of the Board. The other directors are: James Grahl, retired General Manager of Basin Electric Power Cooperative; Milton Chase, retired from a long career with the Rural Electrification Administration (REA), the Department of the Interior and the National Rural Utilities Cooperative Finance Corporation (CFC); and Donald Allen, a Washington, D. C. attorney who specializes in resources matters. I serve as President and manage the corporation's day-to-day activites (without compensation).

Thank you.

Attachment

FM WESTERN AREA POWER SUB DIGEST SL-WEPA
03-24-87 13:45 WSH DC LIAISON
ACTION

United States Senate

WASHINGTON, D.C. 20510

March 20, 1987

The Honorable John Herrington
Secretary of Energy
Department of Energy
Washington, D. C. 20585

Dear Mr. Secretary:

We are writing to bring to your attention our concern with the Bureau of Reclamation (Bureau) and the Western Area Power Administration's (Western) plan to publish in the Federal Register a "Notice of Intent to Prepare Proposals for Developing and Marketing Power from the Diamond Fork Power System and the Jordanelle Power Plant Through Non-Federal Financing." It is our understanding that this notice will be published in the next few weeks and that it will be followed by another notice in April of this year containing details of the proposal and provisions for public comment.

We believe that it is premature for the Bureau and Western to be seeking proposals for the power features of the Bonneville Unit of the Central Utah Project at this time. We feel that non-federal development of these power plants should not proceed until adequate assurances have been given to the Central Utah Water Conservancy District and the delegation that the power plants at Diamond Fork and Jordanelle will be developed in a manner which will enhance the expeditious completion of the entire Bonneville Unit and will ensure appropriate repayment of the project. Simply put, the delegation and the District believe the power components of the Bonneville Unit must be developed so that their benefits accrue directly to the project and they will bear the appropriate level of joint costs.

We are aware that the Bureau and Western have held extensive discussions with one private entity interested in financing the Bonneville Unit power plants. Frankly, we have reservations about the appropriateness of those discussions. Given the broad public interest in the State of Utah over the development of these facilities, we feel the Bureau and Western should be particularly careful in developing relationships with any one private financier at a time when a consensus does not exist for the Bureau and Western's plans.

We respectfully urge you to direct the Bureau and Western to indefinitely delay publishing any notice in the Federal Register with regard to non-federal financing of the Bonneville Unit power plants. We appreciate your attention to this matter and look forward to hearing from you in the near future.

Sincerely,

Jake Garn

Orrin Hatch

James V. Hansen

Wayne Owens

Howard C. Nielson

Senator BRADLEY. Thank you very much, Mr. Holum, for your testimony. It is a pleasure to have you back in the Committee room once again.

STATEMENT OF THOMAS F. DONNELLY, EXECUTIVE VICE PRESIDENT, NATIONAL WATER RESOURCES ASSOCIATION

Mr. DONNELLY. Thank you, Mr. Chairman. I am Tom Donnelly, executive vice president, National Water Resources Association.

I appear before this Committee today to express the association's support for increasing the amounts authorized for the Colorado River storage project to allow completion of the Central Utah project.

I have not seen Senator Garn's bill as yet and I hope you will allow us to amend our testimony accordingly after we have had time to study the bill.

Senator BRADLEY. Well, we might even have another hearing, Mr. Donnelly. Certainly it is open for 30 days.

Mr. DONNELLY. There are two provisions that have been discussed today that bother us. One is the provision that establishes a Central Utah project Fish and Wildlife Commission and the Central Utah project fish and wildlife fund.

Particularly as it is structured in the Owens substitute to H.R. 3408, we feel that that fund is unjustified, particularly in perpetuity, as is suggested in the Owens substitute.

Senator BRADLEY. Do you support—do you agree that it is only if that there will be continuing costs, environmental costs?

Mr. DONNELLY. I believe there are, but I have not seen anything in detail on that.

The Bureau of Reclamation is currently administering a mitigation plan in conjunction with the Fish and Wildlife Service. And that plan was developed in keeping with the provisions of the Fish and Wildlife Coordination Act. In my testimony, I have given some figures.

After hearing the Bureau testify today, those figures came out of the budget documents. I am not so sure that I understand exactly that those figures are accurate, and I would ask you to allow us to revise those as well.

Senator BRADLEY. Sure. The record is open.

Mr. DONNELLY. It seems that every time a water project or any public works project comes back to Congress for modification to the original authorization, environmentalists are at the door with their list of new demands. Most times those demands are realistic and justified.

This time, particularly as structured in the Owens substitute, we feel that they are unjustified, particularly the idea of continuing a $15 million appropriation to be paid by power users in perpetuity.

So we would urge the members of this Committee to reject any such proposal.

Finally, we are concerned with the proposal to complete the remaining irrigation and drainage component by other than the traditional method of federal appropriation and payback according to reclamation law. At the same time, we share Senator Garn's frus-

tration over the inordinate overhead charged against the Central Utah project by the Bureau of Reclamation.

In recent years we have voiced our growing concern over the high percentage of overhead that the Bureau charges to projects and operations and maintenance. We are satisfied that Assistant Secretary Ziglar and Commissioner Duvall have taken major steps to address this problem.

Assessment 87 took a critical look at the Bureau's current operations and proposed a plan for the future. We believe that it was a critical and realistic assessment of the current operations and a well-developed plan for addressing major staffing and operations problems within this agency.

Assessment 87 was the subject of several Congressional hearings last fall. It was the consensus of most members of Congress that the final compromise which permitted the plan to be implemented represented a new direction, that it would allow the Bureau of Reclamation to carry out its mission in a more efficient manner.

In closing, I would like to say, Mr. Chairman, that while my testimony represents and is consistent with the policies of our members, I do not want to leave you or the Committee with the impression that we are a bunch of dinosaurs, either.

We realize that times have changed and we realize that to enact a piece of legislation such as this ceiling increase, that it requires compromise. And we are willing to work with the Committee and work with Senator Garn to try to accomplish a reasonable compromise.

[The prepared statement of Mr. Donnelly follows:]

NWRA

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STATEMENT

of

Thomas F. Donnelly
Executive Vice President

National Water Resources Association

before the

Water and Power Subcommittee
Senate Committee on Energy and Natural Resources
United States Senate

on

Increasing the Amounts Authorized for the Colorado River Storage Project

June 9, 1988

Mr. Chairman and Members of the Committee:

I am Thomas F. Donnelly, Executive Vice President of the National Water Resources Association, I appear before this Committee today to express the Association's support of increasing the amounts authorized for the Colorado River Storage Project.

The National Water Resources Association (NWRA) is a nonprofit federation of associations and individuals dedicated to the conservation, enhancement, and efficient management of our Nation's most precious natural resource, WATER. The NWRA is the oldest and most active national association concerned with water resources policy and development. Its strength is a reflection of the tremendous "grassroots" participation it has generated on virtually every national issue affecting western water conservation, management, and development.

The National Water Resources Association strongly supports increasing the appropriations ceiling to allow completion of the Central Utah Project.

Before I specifically address the ceiling increase and the financing of the remaining irrigation and drainage component, I would like to address two controversial provisions currently being considered in the House version of this legislation. While these provisions are not part of Senator Garn's draft, I believe that the Committee will have to address them either in consideration of Senator Garn's bill or in conference with the House Committee on Interior and Insular Affairs.

The first provision authorizes a $1 million National Academy of Sciences (NAS) study of current management policy and practice for storage and hydropower operations of the Colorado River Storage Project. This provision asks the NAS to determine the costs and benefits from hydropower generation and compare them to the costs and benefits that would result if the Colorado River Storage Project was operated to enhance recreation and environmental desires.

We would strongly echo Utah Governor Norman H. Bangerter's comments before the House Water and Power Resources Subcommittee, April 18, 1988. Governor Bangerter stated, "To assume that a group of 'disinterested' scientists, no matter how distinguished, could produce proposals for significant change that: (1) have eluded competent professionals who have worked with the problem for lifetimes, and (2) could gain the widespread political support necessary for implementation, is beyond the bounds of reason."

The second provision establishes a Central Utah Project Fish and Wildlife Commission and a Central Utah Project Fish and Wildlife Fund. There is no justifiable reason for the establishment of a new environmental commission to dictate fish and wildlife mitigation in perpetuity for the Central Utah Project.

The Bureau of Reclamation is currently administering a mitigation plan in conjunction with the Fish and Wildlife Service. This plan was developed in keeping with the provisions of the Fish and Wildlife Coordination Act - an Act that was established for the very purpose of mitigating environmental disruption or loss caused by public works projects. Approximately $200 million is currently dedicated to recreation and fish and wildlife purposes. Of that amount, over $130 million has already been spent. Environmental mitigation represents 10 percent of the cost of the project. In our view, $200 million is significant environmental mitigation.

Every time that a public works project comes back to Congress for a modification to the original authorization, environmental interests are at the door with their lists of demands. This time there are no specifics, just a mere $15 million in perpetuity. The Central Utah Project Fish and Wildlife Commission proposed in Congressman Owens' substitute to H.R. 3408 is, in our opinion, ENVIRONMENTAL BLACKMAIL. We urge the members of this Committee to reject any such proposal.

Finally, we are concerned with the proposal to complete the remaining irrigation and drainage component by other than the traditional method of federal appropriation and payback according to reclamation law. At the same time, we share Senator Garn's frustration over the inordinate overhead charged against the Central Utah Project by the Bureau of Reclamation.

In recent years, we have voiced our growing concern over the high percentage of overhead that the Bureau charges to projects and operations and maintenance. We are satisfied that Assistant Secretary Ziglar and Commissioner Duvall have taken major steps to address this problem. "Assessment 87" took a critical look at the Bureau's current operations and proposed a plan for the future. We believe that it was a critical and realistic assessment of current operations and a well developed plan for addressing major staffing and operations problems within this agency.

"Assessment 87" was the subject of several Congressional hearings last fall. It was the consensus of most members of Congress that the final compromise which permitted the plan to be implemented represented a new direction that would allow the Bureau of Reclamation to carry out its mission in a more efficient manner.

We would like to see the Committee give this plan a chance to work.

I want to thank the Committee for giving the National Water Resources Association an opportunity to make its concerns known.

Senator BRADLEY. Thank you very much, Mr. Donnelly.

Let me thank this panel, as well as all of the witnesses today. I think that the testimony today highlighted the uncertainty that surrounds the substitute. It is understandable, because the substitute just arrived on everybody's desk in the last few days.

It also left unanswered in my own mind a number of questions relating to the Indian land claim issue and the ultimate disposition of the public power question. And I think that the public power panel raised a number of important questions.

Somebody will have to pay for this. If it is not the Federal Government directly, it will be power users, it appears, or water users. And it seems to me that this has to be resolved before the legislation can move ahead to a markup.

I would assume that that is probably a good reason why we need another hearing, to try to give people a little more time to look at the underlying legislation and to make their recommendations based upon Senator Garn's latest draft.

We hope that over a 30 day period people will make their recommendations in writing, and then we might want to have another Subcommittee meeting to consider things in greater detail.

I view this as a meeting in which the broad strokes were painted, and the next one will require a little more detailed preparation. And that includes everyone from the Bureau to other witnesses.

Thank you very much.

[Whereupon, at 1 p.m., the hearing was adjourned.]

90-692 (248)